# IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

LONTEX CORPORATION,
Plaintiff,
V.

NIKE, INC.,
Defendant.

# **EXHIBIT 1**

#### EXPERT REPORT OF MATTHEW G. EZELL

#### INTRODUCTION

- 1. I am a principal in the marketing research and consulting firm of Ford Bubala & Associates, located in Huntington Beach, California, which has been engaged in commercial marketing research and consulting for the past forty-four years. My professional experience is summarized below in paragraphs 34 through 40.
- 2. In the instant matter, at the request of DLA Piper, counsel for Defendant, NIKE, Inc. ("NIKE"), I designed and caused to be conducted a survey to address the issue of likelihood of confusion. Specifically, I was engaged to design a survey to measure the degree, if any, to which NIKE's athletic performance apparel (shown on a web page with the words COOL COMPRESSION) is likely to cause confusion as to source, authorization or approval of, or business affiliation or business connection with Plaintiff Lontex Corporation ("Lontex").
- 3. This likelihood of confusion survey, hosted by Issues & Answers Network, Inc. ("Issues & Answers"), employed an online protocol using an internet panel created and maintained by Dynata.
- 4. The likelihood of confusion survey conducted in this matter was designed to employ a scientific experimental survey design consisting of two survey cells: (1) a test or experimental survey cell designed to measure likelihood of confusion, if any, with respect to the source, authorization or approval of, or business affiliation or business connection of NIKE's athletic performance apparel (shown on a web page with the words COOL COMPRESSION) with Lontex; and (2) a control survey cell designed to measure the extent of mismeasurement in the test cell survey results.

- 5. In total, four hundred interviews (400) were completed in this likelihood of confusion survey. Two hundred interviews (200) were completed in the test cell and two hundred interviews (200) were completed in the control cell.
- 6. The stimuli utilized in the survey were either 1) a web page for athletic performance apparel from NIKE's website with the words COOL COMPRESSION (test cell) or 2) an identical web page with the words COOL COMPRESSION removed (control cell). Any single respondent saw, and was asked about, only one of the two survey stimuli.
- 7. In total, the results of the likelihood of confusion survey evidence that, on a net basis, none of the relevant universe of potential purchasers of athletic performance apparel are likely to be confused or deceived by the belief that NIKE's athletic performance apparel (shown on a web page with the words COOL COMPRESSION) is made or put out by Lontex, or is being made or put out with the authorization or approval of Lontex, or that whoever puts out NIKE's product has a business affiliation or business connection with Lontex.
- 8. It is my opinion that the results of the survey clearly support a finding of no likelihood of confusion. The survey results evidence that the relevant universe is not likely to be confused or deceived by the belief that NIKE's athletic performance apparel (shown on a web page with the words COOL COMPRESSION) is made or put out by Lontex, or is being made or put out with the authorization or approval of Lontex, or that whoever puts out NIKE's product has a business affiliation or business connection with Lontex.

#### SURVEY BACKGROUND

9. Attached hereto as Exhibit A are the results of the survey which addressed the issue of likelihood of confusion. Exhibit A provides copies of the survey exhibits, the survey screeners and questionnaires, coded response tables, and a listing of the survey responses. The

Appendices of Exhibit A contains the survey specifications, survey screenshots, a final sample disposition report, and electronic copies of the source data.

- 10. The sample selection, questions, questionnaire design, and interviewing procedures employed in this survey were designed in accordance with the generally accepted standards and procedures in the field of surveys. The survey was also designed to meet the criteria for survey trustworthiness detailed in the *Manual for Complex Litigation, Fourth*.<sup>1</sup>
- and a survey universe of potential purchasers of Defendant's class of goods (i.e., athletic performance apparel) was specified. I was responsible for the design of the survey as well as for the procedures to be followed in conducting the interviews. Data gathering was carried out, under the direction of Ford Bubala & Associates, by Issues & Answers, an independent survey organization which hosted the online survey using internet panelists obtained from the sample provider, Dynata. Data gathering for this survey was conducted between December 17-21, 2019.
- 12. The survey conducted in this matter was administered under a double-blind protocol. Specifically, not only were the respondents not informed as to the purpose or sponsor of the survey, but similarly, both the staff of Issues & Answers and the staff of Dynata were not informed as to the purpose or sponsor of the survey.

For the proffered poll or survey, "...Relevant factors include whether: the population was properly chosen and defined; the sample chosen was representative of that population; the data gathered were accurately reported; and the data were analyzed in accordance with accepted statistical principles...In addition, in assessing the validity of a survey, the judge should take into account the following factors: whether the questions asked were clear and not leading; whether the survey was conducted by qualified persons following proper interview procedures; and whether the process was conducted so as to ensure objectivity...." See Federal Judicial Center, *Manual for Complex Litigation, Fourth*, Section 11.493, at 102-104 (2004).

<sup>&</sup>lt;sup>2</sup> See J. Thomas McCarthy, McCarthy on Trademarks and Unfair Competition, Vol. 6 §32:174, 6/2019.

#### SURVEY STRUCTURE

- 13. This survey employed an internet panel created and maintained by Dynata.

  Potential respondents were invited to fill out the screening portion of the interview to determine whether or not they met the defined universe for this survey. Subsequently, those potential respondents who met the universe definition were invited to complete the main survey.
- 14. The relevant universe for this survey consisted of males and females eighteen (18) years of age or older who were likely, in the next year, to purchase athletic performance apparel.<sup>3</sup>
- 15. The respondent selection procedure employed in this survey is referred to as a quota sampling method.<sup>4</sup> This method provided a respondent base that is generally representative of the age and gender distribution of males and females eighteen (18) years of age or older who reported that they are likely in the year to purchase athletic performance apparel. This age and gender distribution was based upon a kNOW omnibus survey conducted between December 6-7, 2019, among a nationally representative sample of one thousand (1,000) individuals across the United States.<sup>5</sup>

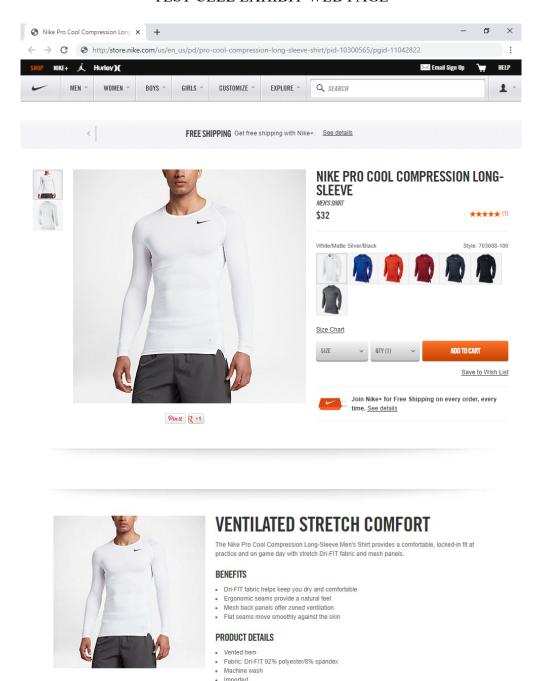
Additionally, the survey universe was also restricted to respondents who: (1) resided in the United States; (2) were using a desktop computer, a laptop/notebook computer, or a tablet to read and answer the survey questions; (3) did not, nor did anyone else in their household, work for an advertising agency or a market research company; or a company that makes, sells, or distributes any athletic performance apparel; (4) agreed to answer the questions in the survey by themselves without the help or assistance of anyone else and without seeking information from any other source (e.g., internet search); (5) if they wore contact lenses or eyeglasses when using the device they were using, would wear them during the questionnaire; (6) selected the appropriate number from a list of four numbers, demonstrating comprehension of survey instructions; and (7) reported they could clearly read the words on the survey exhibit web page.

Quota sampling is a method that uses known information about panel members (e.g., age, gender, geographic location, etc.) to generate demographically applicable samples.

Respondents in the kNOW omnibus survey were asked if they had purchased any athletic performance apparel in the past year. Based on the age, gender, and geographic location of respondents who answered yes to this omnibus survey question, quotas for the Ford Bubala & Associates survey were established as follows: approximately 55% male and 45% female; among males, approximately, 42% 18 to 34, 48% 35 to 54, and 10% 55 or over; and among females, approximately, 36% 18 to 34, 48% 35 to 54, and 16% 55 or over; and approximately 18% from the Northeast, 22% from the Midwest, 38% from the South, and 22% from the West.

- designed to employ a scientific experimental survey design consisting of two survey cells: (1) a test or experimental survey cell designed to measure likelihood of confusion, if any, with respect to the source, authorization or approval of, or business affiliation or business connection of athletic performance apparel from NIKE's website (with the words COOL COMPRESSION) with Lontex; and (2) a control survey cell designed to measure the extent of mismeasurement in the test cell survey results.
- 17. In the test cell, survey respondents saw a web page for athletic performance apparel from NIKE's website with the words COOL COMPRESSION as shown below. Also see Exhibit A, pages 2-3.

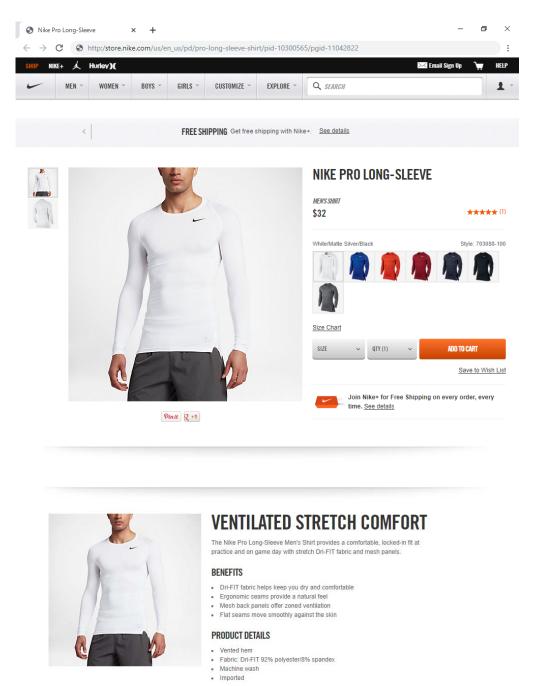
#### TEST CELL EXHIBIT WEB PAGE

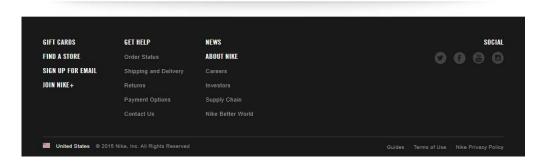




18. In the control cell, survey respondents saw the same web page for athletic performance apparel as in the test cell with the exception that the alleged infringing words COOL COMPRESSION were removed. Also see Exhibit A, pages 70-71.

#### CONTROL CELL EXHIBIT WEB PAGE





- 19. The control cell provides a measure of the extent that mismeasurement exists in the likelihood of confusion test cell survey results. Specifically, the control cell functions as a baseline and provides a measure of the degree to which respondents are likely to give a Lontex response to the test cell survey questions, not as a result of the alleged infringing words COOL COMPRESSION appearing on NIKE's website, but rather because of other factors, such as the survey's questions, the survey's procedures, market share or popularity, or some other potential influence on a respondent's answers.
- 20. In a fashion similar to the protocols employed in a pharmaceutical drug test, the test or experimental cell represents the drug or pill with the "active" ingredient(s) and the control cell represents the "placebo" that does not contain the active ingredient being tested.<sup>6</sup>
- 21. The test and control cells were separate surveys. The questions and procedures for the test cell and the control cell were identical with the exception of the stimuli shown to respondents. As noted earlier, any single respondent participated in interviews in only one of the two survey cells.

#### SURVEY PROCEDURES AND QUESTIONS

22. Initially, potential respondents received an invitation to fill out the screening portion of the interview to determine whether or not they met the universe definition. See Exhibit A, pages 4-7 and 72-75. Subsequently, those respondents who met the universe

This methodology is consistent with the methodology discussed by Professor Diamond in the Federal Judicial Center's *Reference Manual on Scientific Evidence, Third*; "It is possible to adjust many survey designs so that causal inferences about the effect of a [stimulus]...become clear and unambiguous. By adding one or more appropriate control groups, the survey expert can test directly the influence of the stimulus.... Respondents in both the experimental and control groups answer the same set of questions.... The effect of the [stimulus]...is evaluated by comparing the responses made by the experimental group members with those of the control group members.... Both preexisting beliefs and other background noise should have produced similar response levels in the experimental and control groups..."

Shari Seidman Diamond "Reference Guide on Survey Research," in the Federal Judicial Center's *Reference Manual on Scientific Evidence, Third*, pages 398-399.

For the full screener and questionnaire, see Exhibit A, pages 4-12 and 72-80.

definition (and whose demographics would not exceed established quotas) were invited to complete the main survey.

23. The introduction to the main questionnaire was as follows:

In this survey, you are going to be shown a web page and then asked some questions.

Please understand that we are only interested in your opinions or beliefs; and if you don't have an opinion or belief or don't know the answer to a question, that is an acceptable answer.

Next, respondents were shown the appropriate survey exhibit and were instructed as follows:

Please look at this web page as you would if you were considering purchasing the product shown. Please take as much time as you like looking at the web page before continuing with the survey.

Subsequently, respondents were asked:

Could you clearly read the words on the web page?

Only respondents who answered 'yes' to this question were allowed to continue.

Respondents were then asked:

Q9.0 Who do you believe makes or puts out this product? Please be as specific as possible.

If the respondent provided a response other than "Don't know" to Q9.0, he/she was asked the basis for the belief with the question:

Q9.1 Why do you say that? Again, please be as specific as possible.

Next, respondents were asked:

Q10.0 What other brand or brands, if any, do you believe are made or put out by whoever makes or puts out this product? Please be as specific as possible.

Again, if the respondent provided a response other than "Don't know" to Q10.0, he/she was asked the basis for the belief with the question:

Q10.1 Why do you say that? Again, please be as specific as possible.

Q11.0 Do you believe this product...?

Next, respondents were asked:

\_\_\_\_\_1. <u>IS</u> being made or put out with the authorization or approval of any other brand(s) or company(s)
\_\_\_\_\_2. is <u>NOT</u> being made or put out with the authorization or approval of any other

brand(s) or company(s)<sup>8</sup>
3. don't know or have no opinion

Respondents who indicated that they believed the product shown is being made or put out with the authorization or approval of any other brand(s) or company(s)<sup>9</sup> were asked:

Q11.1 With what brand(s) or company(s)? Please be as specific as possible.

Again, if the respondent provided a response other than "Don't know" to Q11.1, he/she was asked the basis for the belief with the question:

Q11.2 Why do you say that? Again, please be as specific as possible.

To guard against any order bias, the first two alternatives in this list were rotated (i.e., approximately one half of the respondents saw the list with the first alternative being "IS being made or put out..." and approximately one half of the respondents saw the list with the first alternative being "is NOT being made or put out...").

As an additional guard against order bias, approximately one-half of the respondents were queried in question series 11 regarding authorization/approval, and approximately one-half of the respondents were queried in question series 11 regarding business affiliation/connection. Similarly, approximately one-half of the respondents were queried in question series 12 regarding authorization/approval, and approximately one-half of the respondents were queried in question series 12 regarding business affiliation/connection.

The last two principal survey questions (i.e., question series 11 and question series 12) were designed to address likelihood of confusion as to authorization or approval or business affiliation or business connection and were also patterned after similarly accepted questions. *See* J. Thomas McCarthy, *McCarthy on Trademarks and Unfair Competition*, Vol. 6 §32:175, 6/2019.

Q12.0 Do you belie product?	ve that whoever makes or puts out this
1.	<u>HAS</u> a business affiliation or business connection with any other brand(s) or company(s)
2.	does <u>NOT</u> have a business affiliation or business connection with any other brand(s) or company(s) <sup>10</sup>
3.	don't know or have no opinion

Respondents who indicated that they believed that whoever makes or puts out the product shown has a business affiliation or business connection with any other brand(s) or company(s) were asked:

Q12.1 With what brand(s) or company(s)? Please be as specific as possible.

Again, if the respondent provided a response other than "Don't know" to Q12.1, he/she was asked the basis for the belief with the question:

Q12.2 Why do you say that? Again, please be as specific as possible.

Respondents were then shown a screen that said:

Next, respondents were asked:

Thank you for your time and participation.

Again, to guard against any order bias, the first two alternatives in this list were rotated (i.e., approximately one half of the respondents saw the list with the first alternative being "HAS a business affiliation..." and approximately one half of the respondents saw the list with the first alternative being "does NOT have a business affiliation...").

#### **SURVEY RESULTS**

#### Test cell

24. In the test cell, in response to Question series 9, no respondents reported that they believed that the product shown (with the words COOL COMPRESSION) is made or put out by Lontex. See Exhibit A, Table 1, page 13.

## TABLE 1 TEST CELL

Q9.0 Who or what company do you believe makes or puts out this product? Please be as specific as possible.

Q9.1 Why do you say that? Again, please be as specific as possible.

	Response D	<u> Distribution</u>
Response Categories	<u>Number</u>	Percent
		(n=200)
1. Lontex / Sweat It Out / Cool Compression		
2. NIKE and its brands (e.g., NIKE Pro, Hurley,	181	90.50
Jordan, etc.)		
3. NIKE and its brands (e.g., NIKE Pro, Hurley,	2	1.00
Jordan, etc.) plus Other		
4. Other	3	1.50
5. Don't know / None	<u>14</u>	7.00
Total	200	100.00

25. In the test cell, in response to Question series 10, no respondents reported that they believed that Lontex or its brands (i.e., Sweat It Out, Cool Compression) are made or put out by whoever makes or puts out the product shown (with the words COOL COMPRESSION). See Exhibit A, Table 2, page 32.

#### TABLE 2 TEST CELL

Q10.0 What other brand or brands, if any, do you believe are made or put out by whoever makes or puts out this product? Please be as specific as possible.

Q10.1 Why do you say that? Again, please be as specific as possible.

		Response I	<u>Distribution</u>	
			Dedup	licated
Response Categories	Number	Percent	Number	Percent
		(n=200)		(n=200)
1. Lontex / Sweat It Out / Cool Compression				
2. NIKE and its brands (e.g., NIKE Pro,	63	31.50	3	1.50
Hurley, Jordan, etc.)				
3. NIKE and its brands (e.g., NIKE Pro,	1	0.50		
Hurley, Jordan, etc.) plus Other				
4. Other company(s)	22	11.00		
5. Don't know / None	<u>114</u>	57.00		
Total	200	100.00		

26. In the test cell, in response to Question series 11, no respondents reported that they believed that the product shown (with the words COOL COMPRESSION) is being made or put out with the authorization or approval of Lontex or its brands. See Exhibit A, Table 3, page 44.

#### TABLE 3 TEST CELL

- Q11.0 Do you believe this product...?
  - 1. <u>IS</u> being made or put out with the authorization or approval of any other brand(s) or company(s)
  - 2. is <u>NOT</u> being made or put out with the authorization or approval of any other brand(s) or company(s)
  - 3. don't know or have no opinion
- Q11.1 What brand(s) or company(s)? Please be as specific as possible.
- Q11.2 Why do you say that? Again, please be as specific as possible.

		Response Distribution		
			Dedupl	icated
Response Categories	<u>Number</u>	Percent	<u>Number</u>	Percent
		(n=200)		(n=200)
• Is being made or put out wit	h			
authorization or approval				
1. Lontex / Sweat It Out / C	Cool			
Compression				
2. NIKE and its brands (e.g	g., NIKE			
Pro, Hurley, Jordan, etc.	) 64	32.00		
3. NIKE and its brands (e.g	g., NIKE			
Pro, Hurley, Jordan, etc.	) plus Other 1	0.50		
4. Other company(s)	8	4.00		
5. Don't know / None	<u>32</u>	<u>16.00</u>		
Subtotal	105	52.50		
• Is not being made or put out	with			
authorization or approval	52	26.00		
<ul> <li>Don't know/No opinion</li> </ul>	43	21.50		
Total	$\overline{200}$	100.00		

27. In the test cell, in response to Question series 12, no respondents reported that they believed that the product shown (with the words COOL COMPRESSION) has a business affiliation or business connection with Lontex or its brands. See Exhibit A, Table 4, page 55.

#### TABLE 4 TEST CELL

- Q12.0 Do you believe that whoever makes or puts out this product...?
  - 1. <u>HAS</u> a business affiliation or business connection with any other brand(s) or company(s)?
  - 2. does <u>NOT</u> have a business affiliation or business connection with any other brand(s) or company(s)?
  - 3. don't know or have no opinion?
- Q12.1 With what brand(s) or company(s)? Please be as specific as possible.
- Q12.2 Why do you say that? Again, please be as specific as possible.

			Response Distribution		
				Dedup	licated
Re	esponse Categories	<u>Number</u>	Percent	<u>Number</u>	Percent
			(n=200)		(n=200)
•	Has a business affiliation or connection				
	1. Lontex / Sweat It Out / Cool				
	Compression				
	2. NIKE and its brands (e.g., NIKE				
	Pro, Hurley, Jordan, etc.)	55	27.50	1	0.50
	3. NIKE and its brands (e.g., NIKE				
	Pro, Hurley, Jordan, etc.) plus Other	3	1.50		
	4. Other company(s)	12	6.00		
	5. Don't know / None	<u>24</u>	<u>12.00</u>		
	Subtotal	94	47.00		
•	Does not have a business affiliation or				
	connection	58	29.00		
•	Don't know/No opinion	48	24.00		
	Total	200	100.00		

## Control cell

28. In the control cell, in response to Question series 9, no respondents reported that they believed that the product shown (without the words COOL COMPRESSION) is made or put out by Lontex. See Exhibit A, Table 7, page 81.

## TABLE 7 CONTROL CELL

Q9.0 Who or what company do you believe makes or puts out this product? Please be as specific as possible.

Q9.1 Why do you say that? Again, please be as specific as possible.

Q9.1 Wily do you say that? Again, please be as specific a		
	Response I	<u> Distribution</u>
Response Categories	<u>Number</u>	Percent
		(n=200)
1. Lontex / Sweat It Out / Cool Compression		
2. NIKE and its brands (e.g., NIKE Pro, Hurley,	181	90.50
Jordan, etc.)		
3. NIKE and its brands (e.g., NIKE Pro, Hurley,		
Jordan, etc.) plus Other		
4. Other company(s)	3	1.50
5. Don't know / None	<u>16</u>	8.00
Total	200	100.00

29. In the control cell, in response to Question series 10, no respondents reported that they believed that Lontex or its brands (i.e., Sweat It Out, Cool Compression) are made or put out by whoever makes or puts out the product shown (without the words COOL COMPRESSION). See Exhibit A, Table 8, page 100.

#### TABLE 8 CONTROL CELL

Q10.0 What other brand or brands, if any, do you believe are made or put out by whoever makes or puts out this product? Please be as specific as possible.

Q10.1 Why do you say that? Again, please be as specific as possible.

		Response I	<u>Distribution</u>	
			Dedup	licated
Response Categories	<u>Number</u>	$\frac{Percent}{(n=200)}$	<u>Number</u>	Percent (n=200)
1. Lontex / Sweat It Out / Cool				
Compression				
2. NIKE and its brands (e.g., NIKE Pro,	37	18.50		
Hurley, Jordan, etc.)				
3. NIKE and its brands (e.g., NIKE Pro,	4	2.00		
Hurley, Jordan, etc.) plus Other				
4. Other company(s)	25	12.50		
5. Don't know / None	<u>134</u>	67.00		
Total	200	100.00		

30. In the control cell, in response to Question series 11, no respondents reported that they believed that the product shown (without the words COOL COMPRESSION) is being made or put out with the authorization or approval of Lontex or its brands. See Exhibit A, Table 9, page 110.

#### TABLE 9 CONTROL CELL

- Q11.0 Do you believe this product...?
  - 1. <u>IS</u> being made or put out with the authorization or approval of any other brand(s) or company(s)
  - 2. is <u>NOT</u> being made or put out with the authorization or approval of any other brand(s) or company(s)
  - 3. don't know or have no opinion
- Q11.1 What brand(s) or company(s)? Please be as specific as possible.
- Q11.2 Why do you say that? Again, please be as specific as possible.

		Response Distribution		
			Dedupl	icated
Response Categories	Number	Percent	<u>Number</u>	Percent
		(n=200)		(n=200)
• Is being made or put out with				
authorization or approval				
1. Lontex / Sweat It Out / Cool				
Compression				
2. NIKE and its brands (e.g., NIKE				
Pro, Hurley, Jordan, etc.)	69	34.50	3	1.50
3. NIKE and its brands (e.g., NIKE				
Pro, Hurley, Jordan, etc.) plus Other	4	2.00		
4. Other company(s)	5	2.50		
5. Don't know / None	40	20.00		
Subtotal	118	59.00		
• Is not being made or put out with				
authorization or approval	44	22.00		
<ul> <li>Don't know/No opinion</li> </ul>	38	19.00		
Total	200	100.00		

31. In the control cell, in response to Question series 12, no respondents reported that they believed that the product shown (without the words COOL COMPRESSION) has a business affiliation or business connection with Lontex or its brands. See Exhibit A, Table 10, page 122.

#### TABLE 10 CONTROL CELL

- Q12.0 Do you believe that whoever makes or puts out this product...?
  - 1. <u>HAS</u> a business affiliation or business connection with any other brand(s) or company(s)?
  - 2. does <u>NOT</u> have a business affiliation or business connection with any other brand(s) or company(s)?
  - 3. don't know or have no opinion?
- Q12.1 With what brand(s) or company(s)? Please be as specific as possible.
- Q12.2 Why do you say that? Again, please be as specific as possible.

		Response	Distribution	
			Dedup	licated
Response Categories	<u>Number</u>	Percent	<u>Number</u>	Percent
		(n=200)		(n=200)
<ul> <li>Has a business affiliation or connection</li> </ul>				
1. Lontex / Sweat It Out / Cool				
Compression				
2. NIKE and its brands (e.g., NIKE				
Pro, Hurley, Jordan, etc.)	47	23.50		
3. NIKE and its brands (e.g., NIKE				
Pro, Hurley, Jordan, etc.) plus Other	2	1.00		
4. Other company(s)	5	2.50		
5. Don't know / None	<u>29</u>	<u>14.50</u>		
Subtotal	83	41.50		
<ul> <li>Does not have a business affiliation or</li> </ul>				
connection	60	30.00		
<ul> <li>Don't know/No opinion</li> </ul>	<u>57</u>	28.50		
Total	200	100.00		

#### Summary of Survey Results

32. In total, the results of the likelihood of confusion survey evidence that none of the relevant universe of potential purchasers of athletic performance apparel are likely to be confused or deceived by the belief that NIKE's athletic performance apparel (shown on a web page with the words COOL COMPRESSION) is made or put out by Lontex, or is being made or put out with the authorization or approval of Lontex or its brands, or that whoever puts out NIKE's product has a business affiliation or business connection with Lontex or its brands. See Exhibit A, Table 13, page 134.

TABLE 13					
TEST CELL AND CONTROL	L CELL				
Composite Results					
Deduplicated Lontex Respo	onses				
Response Distribution					
	Test Cell	Control Cell			
Response Categories	Percent	Percent			
(n=200) $(n=200)$					
1. Lontex / Sweat It Out / Cool Compression					
2. NIKE brands 92.50 92.00					

#### CONCLUSION

33. It is my considered opinion, based upon my education, background, and professional experience, my review of intellectual property legal treatises and case opinions, and based upon my review and analysis of the survey results, that the results of the survey clearly support a finding of no likelihood of confusion. Specifically, the survey results evidence that NIKE clothing shown on a web page with the words COOL COMPRESSION does not create a likelihood of confusion with Lontex nor its brands among the relevant universe of potential purchasers of athletic performance apparel.

Of note, the NIKE response rate was nearly identical for both the test and control cell.

#### **QUALIFICATIONS**

- 34. Ford Bubala & Associates has been retained by a variety of firms engaged in the consumer product, industrial product, and service sectors of the economy to provide marketing consulting and research services.
- 35. During the past forty-four years, Ford Bubala & Associates has been retained in a number of litigation-related consultancies involving intellectual property matters, including matters before federal and state courts, the Trademark Trial and Appeal Board of the U.S. Patent and Trademark Office, and the International Trade Commission.
- 36. I have been with Ford Bubala & Associates for approximately eighteen years. During the past ten years, I have participated in the design and execution of a variety of surveys relating to intellectual property matters, including trademark, false advertising, and other related matters. Additionally, I am familiar with the tests for trustworthiness of properly conducted surveys or polls and the accepted principles of survey research, detailed in the *Manual for Complex Litigation, Fourth.* <sup>12</sup>
- 37. I am a member of the American Marketing Association (AMA), the American Association of Public Opinion Research (AAPOR), the Insights Association, <sup>13</sup> and the International Trademark Association (INTA).
- 38. Attached hereto as Exhibit B is a copy of publications that I have authored or coauthored in the last ten years.
- 39. Attached hereto as Exhibit C is a list of all trial and deposition testimony I have given in the last four years.

Supra note 3.

The Marketing Research Association (MRA) and the Council of American Survey Research Organizations (CASRO) merged on January 1, 2017 to form the Insights Association.

40. Attached hereto as Exhibit D is a copy of my professional history, describing my qualifications and professional background.

#### CASE MATERIALS CONSIDERED

41. I considered the following materials in designing and conducting the survey in this matter: First Amended Complaint and its exhibits; Plaintiff Lontex Corporation's Supplemental Response And Objections To First Set Of Interrogatories (Nos. 1–19); Exhibit 1 to Court Authorized Joint Submission Regarding NIKE's Partial Motion to Dismiss and its Exhibits B through E; LTX\_EDPA\_0000066-7; LTX\_EDPA\_00000183; LTX\_EDPA\_00000232; LTX\_EDPA\_00000238; LTX\_EDPA\_00000277; LTX\_EDPA\_00000551-2; LTX\_EDPA\_00000863-6; LTX\_EDPA\_00007035-62; LTX\_EDPA\_00007099-142; LTX\_EDPA\_00007241-2; LTX\_EDPA\_00007857-8; LTX\_EDPA\_00012579-600; LTX\_EDPA\_00013083-6; Specimens for Serial Nos. 74476891, 78864885, 78963029; Plaintiff's website (https://www.sweatitout.com/); pages from Defendant's website 14; and the relevant results of the online omnibus study conducted December 6-7, 2019 (See Exhibit A, Appendix G).

#### **COMPENSATION**

42. Ford Bubala & Associates' fees for this engagement consist solely of billable time and expenses. Standard time is billed at the rate of \$600.00 per hour for the services of a Principal and \$300.00 per hour for the services of a Research Associate. Deposition and trial time are billed at the rate of \$750.00 per hour plus expenses.

<sup>14</sup> Retrieved from Internet Archive website:
https://web.archive.org/web/20150905103504/http://store.nike.com:80/us/en\_us/pw/mens-nike-pro-hypercool-training-clothing/7puZbgdZ7u9Z9hkZc0s,
https://web.archive.org/web/20150906084928/http://store.nike.com/us/en\_us/pd/pro-cool-compression-long-sleeve-shirt/pid-10300565/pgid-11042822,
https://web.archive.org/web/20150905150633/http://store.nike.com/us/en\_us/pd/pro-cool-compression-tank-top/pid-10276921/pgid-10967919, https://web.archive.org/web/20160422053844/http://store.nike.com/us/en\_us/pd/pro-cool-compression-tights/pid-10738142/pgid-11177416

43. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 10th day of March, 2020, in Huntington Beach, California.

Matthew G. Ezell

# Exhibit A

# LONTEX V. NIKE MATTER LIKELIHOOD OF CONFUSION SURVEY

# LONTEX V. NIKE MATTER LIKELIHOOD OF CONFUSION SURVEY

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#### APPENDIX

Appendix A: Survey Specifications

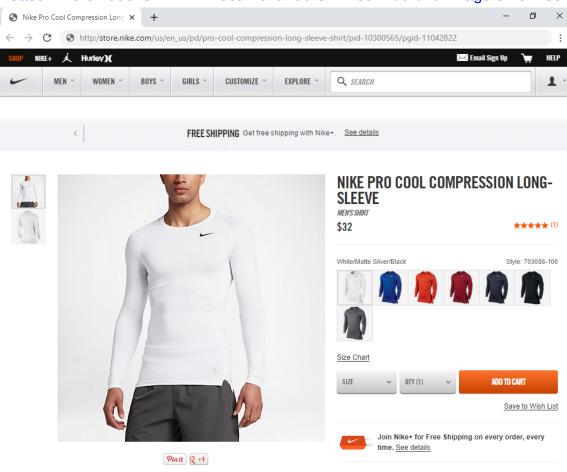
Appendix B: Survey Screen Shots - Test Cell Appendix B: Survey Screen Shots - Test Cell
Appendix C: Survey Screen Shots - Control Cell
Appendix D: Respondent Numbering System
Appendix E: Final Sample Distribution Report
Appendix F: Survey Data File
Appendix G: Omnibus Survey Data File

# TEST CELL

EXHIBIT, SCREENER AND QUESTIONNAIRE

- 1 - TEST CELL

# 





# VENTILATED STRETCH COMFORT

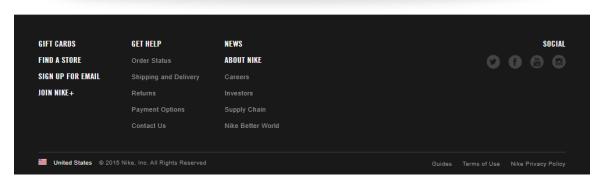
practice and on game day with stretch Dri-FIT fabric and mesh panels.

#### **BENEFITS**

- Dri-FIT fabric helps keep you dry and comfortable
- Ergonomic seams provide a natural feel
- · Mesh back panels offer zoned ventilation
- . Flat seams move smoothly against the skin

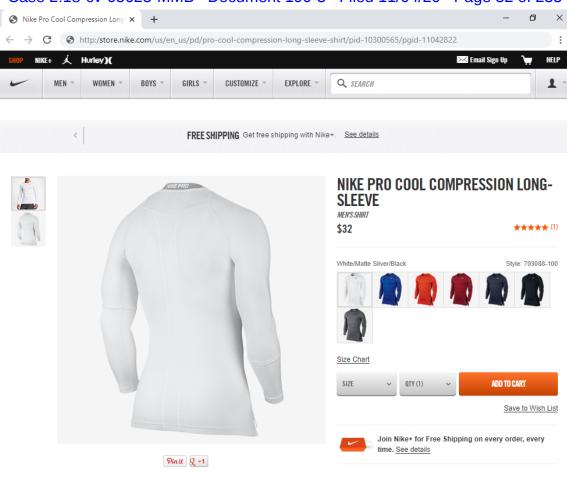
#### PRODUCT DETAILS

- Fabric: Dri-FIT 92% polyester/8% spandex
- Machine wash
- Imported



- 2 -**TEST CELL** 

# 





# **VENTILATED STRETCH COMFORT**

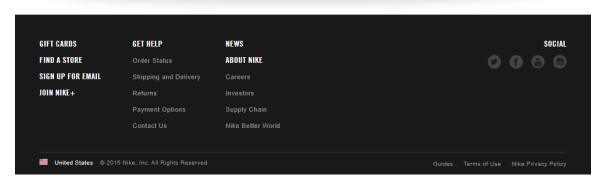
The Nike Pro Cool Compression Long-Sleeve Men's Shirt provides a comfortable, locked-in fit at practice and on game day with stretch Dri-FIT fabric and mesh panels.

#### BENEFITS

- Dri-FIT fabric helps keep you dry and comfortable
- Ergonomic seams provide a natural feel
- Mesh back panels offer zoned ventilation
- Flat seams move smoothly against the skin

#### PRODUCT DETAILS

- Vented hem
- Fabric: Dri-FIT 92% polyester/8% spandex
- Machine wash
- Imported



- 3 - TEST CELL

## SCREENER - W

00				N I	44.4
<b>3</b> C	к	E	E	IV	#1

Please take a few moments to complete our questionnaire.	We value you
opinions.	

орин	JIIS.			
SCRE	EEN #2			
1.0	In the next year, are you likely to purchase an <b>PROGRAMMER NOTE: RANDOMIZE LIST.</b>	y of the follo	owing onl	ine?
	PROGRAMMER NOTE. RANDOMIZE LIST.	<u>Yes</u>	<u>No</u>	Don't <u>know</u>
	apparel	1.	2.	3.
	kitchen appliances	1.	2.	3.
	office supplies	1.	2.	3.
	PROGRAMMER NOTE: IF YES TO APPAREITERMINATE.	L, CONTINI	UE; OTH	HERWISE,
SCRE	EEN #3			
1.1	In the next year, are you likely to purchase an <b>PROGRAMMER NOTE: RANDOMIZE LIST.</b>	y of the follo	owing onl	ine?
	TROOM WINDER NOTE: NAMES ON THE LIGHT.	<u>Yes</u>	<u>No</u>	Don't <u>know</u>
	athletic performance apparel	1.	2.	3.
	business apparel	1.	2.	3.
	formal apparel	1.	2.	3.
	PROGRAMMER NOTE: IF YES TO PERFORI CONTINUE; OTHERWISE, TERMINATE.	MANCE API	PAREL,	
SCRE	EEN #4			
2.0	Select your gender.			
	1. Male			
	2. Female			

PROGRAMMER NOTE: GENDER QUOTA MALES 55%, FEMALES 45%

- 4 - TEST CELL

#### **SCREEN #5**

2.1 For verification purposes, please enter your date of birth.

/	/_	
MM	DD	YYYY

PROGRAMMER NOTE: TERMINATE IF DOES NOT MATCH PANELIST'S PRE-EXISTING DATA. IF DOB IS BLANK, TERMINATE AS REFUSED. CALCULATE AGE RANGES TO DETERMINE OPEN QUOTAS FOR AGE PRIOR TO CONTINUING. CODE AGE RANGE BASED ON DOB]

- 1. Under 18 **TERMINATE.**
- 2. 18 to 34
- 3. 35 to 54
- 4. 55 or over

PROGRAMMER NOTE: AGE/GENDER QUOTAS:

	MALES	FEMALES
18 TO 34	42%	36%
35 TO 54	48%	48%
55 OR OVER	10%	16%

#### **SCREEN #6**

3.0 Please select the area of the country in which you reside:

22%

38%

22%

MIDWEST SOUTH

WEST

1.	Northeast (Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont)	
2.	Midwest (Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin)	
3.	South (Alabama, Arkansas, DC, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, West Virginia)	
4.	West (Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming)	
5.	Other TERMINATE.	
PROGRAMMER NOTE: QUOTAS FOR POPULATION IN THE FOUR CENSUS REGIONS:  NORTHEAST 18%		

- 5 - TEST CELL

# **SCREEN #7** 4.0 What best describes the device you are using right now to take this survey? \_\_\_1. A desktop computer \_\_\_\_2. A laptop/notebook computer \_\_\_\_3. A tablet \_\_\_\_4. A phone Other \_\_\_\_5. PROGRAMMER NOTE: OPTION 1, 2, OR 3, CONTINUE. ALL OTHERS, TERMINATE. **SCREEN #8** 5.0 Do you, or does anyone else in your household, work for... Yes No an advertising agency or a market research company?\_\_\_\_\_ \_\_\_\_1. \_\_\_\_2. a company that makes, sells, or distributes any athletic performance apparel?\_\_\_\_\_1. \_\_\_\_1. a company that makes, sells, or distributes \_\_\_\_1. \_\_\_\_2. any business apparel? a company that makes, sells, or distributes any formal apparel? \_\_\_\_\_1. \_\_\_\_\_1. \_\_\_\_2. PROGRAMMER NOTE: IF YES TO AD AGENCY OR ATHLETIC PERFORMANCE APPAREL, TERMINATE. ALL OTHERS, CONTINUE.

**SCREEN #9** 

6.0	Do you agree to answer the questions in this survey by yourself without the help or assistance of anyone else?		
	1. Yes → CONTINUE.		
	2. No <b>→ TERMINATE</b> .		

- 6 - TEST CELL

#### SCREEN #10

6.1		o you agree to answer the questions in this survey without seeking formation from any other source (for example, will not conduct an internet earch)?	
	1.	Yes → CONTINUE.	
	2.	No → TERMINATE.	
SCRE	EN #1	1	
7.0		usually wear contact lenses or eyeglasses when you use the device e using right now?	
	1.	Yes → CONTINUE.	
	2.	No → GO TO SCREEN #13.	
SCRE	EN #12	2	
7.1	Do you	agree to wear them during the rest of the questionnaire?	
	1.	Yes → CONTINUE.	
	2.	No → TERMINATE.	
SCRE	EN #13	3	
8.0		select the number (INSERT RANDOM NUMBER ONE THROUGH) from the following list in order to continue with the survey.	
	1.	One	
	2.	Two	
	3.	Three	
	4.	Four	
		ED NOTE. LE NUMBED ENTEDED MATCUES NUMBED IN	

PROGRAMMER NOTE: IF NUMBER ENTERED MATCHES NUMBER IN QUESTION, CONTINUE. OTHERWISE, TERMINATE.

- 7 - TEST CELL

### QUESTIONNAIRE - W

#### SCREEN #14

In this survey, you are going to be shown a web page and then asked some questions.

Please understand that we are only interested in your opinions or beliefs; and if you don't have an opinion or belief or don't know the answer to a question, that is an acceptable answer.

#### SCREEN #15

Please look at this web page as you would if you were considering purchasing the product shown. Please take as much time as you like looking at the web page before continuing with the survey.

PROGRAMMER NOTE: SHOW IMAGE W1.

### SCREEN #16

Could y	you clearly read the words on the web page?
1.	Yes → CONTINUE.
2.	No → TERMINATE.

- 8 - TEST CELL

PROGRAMMER NOTE: SHOW IMAGE W2. DISPLAY "Click image to open web page" BELOW IMAGE. WHEN IMAGE IS CLICKED, SHOW WEB PAGE W IN A NEW WINDOW.

9.0	Who do you believe makes or puts out this product? Please be as specific as possible.					
	☐ Don't know GO TO> SCREEN #19.					
SCRI	EEN #18					
web	GRAMMER NOTE: SHOW IMAGE W2. DISPLAY "Click image to open page" BELOW IMAGE. WHEN IMAGE IS CLICKED, SHOW WEB PAGE A NEW WINDOW.					
9.1	Why do you say that? Again, please be as specific as possible.					
	☐ Don't know					

- 9 - TEST CELL

PROGRAMMER NOTE: SHOW IMAGE W2. DISPLAY "Click image to open web page" BELOW IMAGE. WHEN IMAGE IS CLICKED, SHOW WEB PAGE W IN A NEW WINDOW.

10.0	What other brand or brands, if any, do you believe are made or put out by whoever makes or puts out this product? Please be as specific as possible					
	☐ Don't know GO TO → SCREEN #21.					
SCRE	EN #20					
web	GRAMMER NOTE: SHOW IMAGE W2. DISPLAY "Click image to open page" BELOW IMAGE. WHEN IMAGE IS CLICKED, SHOW WEB PAGE A NEW WINDOW.					
10.1	Why do you say that? Again, please be as specific as possible.					
	☐ Don't know					

- 10 - TEST CELL

PROGRAMMER NOTE: SHOW	IMAGE W2.	DISPLAY '	'Click image	e to open
web page" BELOW IMAGE.	WHEN IMAG	SE IS CLICK	(ED, SHOW	<b>WEB PAGE</b>
W IN A NEW WINDOW.				

11.0	PROGI	believe this product?  RAMMER NOTE: ROTATE FIRST TWO ALTERNATIVES. ALSO, ROTATE AND Q12.0 SERIES.
	1.	IS being made or put out with the authorization or approval of any other brand(s) or company(s)
	2.	is NOT being made or put out with the authorization or approval of any other brand(s) or company(s)
	3.	don't know or have no opinion  PROGRAMMER NOTE: IF 'IS,' CONTINUE;  OTHERWISE, GO TO → SCREEN #24.
SCRE	EN #22	2
web	page" E	ER NOTE: SHOW IMAGE W2. DISPLAY "Click image to open BELOW IMAGE. WHEN IMAGE IS CLICKED, SHOW WEB PAGE / WINDOW.
11.1	With w	hat brand(s) or company(s)? Please be as specific as possible.
	Dc	on't know <b>GO TO SCREEN</b> #24.
SCRE	EN #23	3
web	page" E	ER NOTE: SHOW IMAGE W2. DISPLAY "Click image to open BELOW IMAGE. WHEN IMAGE IS CLICKED, SHOW WEB PAGE / WINDOW.
11.2	Why do	o you say that? Again, please be as specific as possible.
		on't know

- 11 - TEST CELL

PROGRAMMER NOTE: SHOW	IMAGE W2.	DISPLAY "Clic	ck image to open
web page" BELOW IMAGE.	WHEN IMAG	SE IS CLICKED	, SHOW WEB PAGE
W IN A NEW WINDOW.			

12.0	PROG	u believe that whoever makes or puts out this product?  RAMMER NOTE: ROTATE FIRST TWO ALTERNATIVES. ALSO, ROTATE  AND Q12.0 SERIES.
	1.	HAS a business affiliation or business connection with any other brand(s) or company(s)
	2.	does NOT have a business affiliation or business connection with any other brand(s) or company(s)
ı		don't know or have no opinion  AMMER NOTE: IF 'HAS A BUSINESS AFFILIATION,' CONTINUE;  OTHERWISE, GO TO → SCREEN #27.
SCRE	EN #25	5
web	page" I	IER NOTE: SHOW IMAGE W2. DISPLAY "Click image to open BELOW IMAGE. WHEN IMAGE IS CLICKED, SHOW WEB PAGE WINDOW.
12.1	With w	what brand(s) or company(s)? Please be as specific as possible.
	☐ Do	on't know <b>GO TO SCREEN #27</b> .
SCRE	EN #26	6
web	page" I	IER NOTE: SHOW IMAGE W2. DISPLAY "Click image to open BELOW IMAGE. WHEN IMAGE IS CLICKED, SHOW WEB PAGE WINDOW.
12.2	Why do	o you say that? Again, please be as specific as possible.
	Do	on't know

## SCREEN #27

13.0 Thank you for your time and participation.

- 12 - TEST CELL

### TABLE 1

### TEST CELL

- Q9.0 Who do you believe makes or puts out this product? Please be as specific as possible.
- Q9.1 Why do you say that? Again, please be as specific as possible.

	Response [	Distribution
	Number	<u>Percent</u>
Response Categories		(n=200)
<ol> <li>Lontex / Sweat It Out / Cool Compression</li> </ol>		
2. Nike and its brands (e.g., Nike Pro, Hurley,		
Jordan, etc.)	181	90.50
Jordan, etc.)	101	70.00
3. Nike and its brands (e.g., Nike Pro, Hurley,		
Jordan, etc.) plus Other	2	1.00
4. Other	2	1.50
4. Other	3	1.50
5. Don't know /None	14	7.00
o. Boilt know / Noric	<u> </u>	<u></u>
Total	200	100.00

# RESPONSE CATEGORIES Questions 9.0 through 9.1

### TEST CELL

- 1. Lontex / Sweat It Out / Cool Compression
- 2. Nike and its brands (e.g., Nike Pro, Hurley, Jordan, etc.)
- 3. Nike and its brands (e.g., Nike Pro, Hurley, Jordan, etc.) plus Other
- 4. Other
- 5. Don't know / None

- 14 - TEST CELL

### SURVEY RESPONSES TEST CELL

- Q9.0 Who do you believe makes or puts out this product? Please be as specific as possible.
- Q9.1 Why do you say that? Again, please be as specific as possible.

RESPONSE CATEGORY 1: Lontex / Sweat It Out / Cool Compression

There are no responses in this category.

Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 45 of 235 Q9.0 Who do you believe makes or puts out this product? Please be as specific as possible.

Q9.1 Why do you say that? Again, please be as specific as possible.

RESPONSE CATEGORY 2: Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc.)

RESPONDENT NUMBER	RESPONS	<u>SE</u>
1001	Q9.0 Q9.1	Nike. Because of the logo and the web link.
1002	Q9.0 Q9.1	Nike. Nike.
1003	Q9.0 Q9.1	Nike. Nike.
1004	Q9.0 Q9.1	Nike with the Swoosh. The Swoosh logo.
1005	Q9.0 Q9.1	Nike. Nike athletic.
1006	Q9.0 Q9.1	Nike. Nike. It's on the screen.
1007	Q9.0 Q9.1	Nike. Because it says Nike.
1008	Q9.0 Q9.1	Nike. It says Nike.
1009	Q9.0 Q9.1	Nike. It says Nike.
1010	Q9.0 Q9.1	Nike. I said Nike because the product title has the brand name Nike listed.
1011	Q9.0 Q9.1	Nike. Nike Pro Cool.
1012	Q9.0 Q9.1	Nike. It's clear in the ad.
1013	Q9.0 Q9.1	Nike. It looks like the Nike website.
1014	Q9.0 Q9.1	Nike. Nike web page address at top.
1015	Q9.0 Q9.1	Nike. Says Nike Pro Cool.

- 16 -**TEST CELL**  Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 46 of 235 Q9.0 Who do you believe makes or puts out this product? Please be as specific as possible.

Q9.1 Why do you say that? Again, please be as specific as possible.

# RESPONSE CATEGORY 2: Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc.) continued

RESPONDENT NUMBER	RESPONS	<u>SE</u>
1016	Q9.0 Q9.1	Nike. Logo and website.
1017	Q9.0 Q9.1	Nike. High quality, beautiful colors and the company's distinctive logo.
1018	Q9.0 Q9.1	Nike. It shows brand Nike.
1019	Q9.0 Q9.1	Nike. It says it in the description and the shirt has the Nike emblem on it.
1020	Q9.0 Q9.1	Nike. Nike shirts.
1021	Q9.0 Q9.1	Nike. It's written in the description of the product and the checkmark logo at the top of the page.
1022	Q9.0 Q9.1	Nike. The symbol on shirt and the description states that.
1023	Q9.0 Q9.1	Nike. It shows the logo and brand name.
1024	Q9.0 Q9.1	This clothes are made by Nike. This clothes are made by Nike.
1025	Q9.0 Q9.1	Nike. Nike, it says so.
1026	Q9.0 Q9.1	Nike. I see Nike at the top of the page.
1027	Q9.0 Q9.1	Nike. Has it on the webpage as well as the shirt.
1028	Q9.0 Q9.1	Nike is ok product. This product quality is very good. Nike, I like this brand. This product quality is very good.
1029	Q9.0 Q9.1	Nike. Nike.
1030	Q9.0 Q9.1	Nike. Nike - website name, apparel brand name, product logo shown.

- 17 -**TEST CELL** 

Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 47 of 235 Q9.0 Who do you believe makes or puts out this product? Please be as specific as possible.

Q9.1 Why do you say that? Again, please be as specific as possible.

# RESPONSE CATEGORY 2: Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc.) continued

DECREASE		continued
RESPONDENT NUMBER	RESPONS	<u>SE</u>
1031	Q9.0 Q9.1	Nike. I recognize the Nike Swoosh on the shirt and see the text Nike throughout the page.
1033	Q9.0 Q9.1	Nike. Logo on shirt.
1034	Q9.0 Q9.1	Nike. It's a Nike shirt.
1035	Q9.0 Q9.1	Nike. Listed in headline and URL.
1036	Q9.0 Q9.1	Nike Product has good provided and believe it. This product has very good and love it. Nike Product has good provided and love it. Good unique product.
1037	Q9.0 Q9.1	Nike. It's a Nike compression shirt.
1038	Q9.0 Q9.1	Nike. It is the first word in the product title.
1039	Q9.0 Q9.1	Nike. The models.
1040	Q9.0 Q9.1	Nike cloths. I saw ad.
1041	Q9.0 Q9.1	Nike. The logo on the front of the shirt and on the advertisement itself and on the bottom of the page.
1042	Q9.0 Q9.1	Nike. Logo on shirt as well as the word "Nike" in the description.
1043	Q9.0 Q9.1	Nike. Because there are Nike Pro Cool Compression Long-Sleeve T-shirts on the page.
1044	Q9.0 Q9.1	Nike.com. The brand of the shirt, the description and the fact that I buy from Nike.com very regularly along with being a Nike plus member.

- 18 -**TEST CELL**  Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 48 of 235 Q9.0 Who do you believe makes or puts out this product? Please be as specific as possible.

Q9.1 Why do you say that? Again, please be as specific as possible.

# RESPONSE CATEGORY 2: Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc.) continued

RESPONDENT		continued
<u>NUMBER</u>	RESPONS	<u>DE</u>
1045	Q9.0 Q9.1	Nike. Swoosh logo.
1047	Q9.0 Q9.1	Nike. Says Nike.
1048	Q9.0 Q9.1	Nike. Written on ad.
1049	Q9.0 Q9.1	Nike. Because is Nike.
1050	Q9.0 Q9.1	Nike. The ad says Nike.
1051	Q9.0 Q9.1	Nike. I recognize the logo and I see it in the caption.
1052	Q9.0 Q9.1	Nike. That's what the description says.
1053	Q9.0 Q9.1	Nike. Because it says it's Nike and it has a Nike logo.
1054	Q9.0 Q9.1	Nike. The Swoosh emblem.
1055	Q9.0 Q9.1	Nike. It is called Nike Cool Compression Long-Sleeve.
1056	Q9.0 Q9.1	Nike. Logo and description.
1057	Q9.0	Nike always provides best quality material product. And, I like to buy from Nike.
	Q9.1	Because I like this brand.
1058	Q9.0 Q9.1	Nike. The product description states Nike Pro along with the "Swoosh" symbol in the top left corner of the page.
1059	Q9.0 Q9.1	Nike. Nike brand.

- 19 -**TEST CELL**  Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 49 of 235 Q9.0 Who do you believe makes or puts out this product? Please be as specific as possible.

Q9.1 Why do you say that? Again, please be as specific as possible.

### RESPONSE CATEGORY 2: Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc.) continued

		continued
RESPONDENT		
NUMBER	RESPONS	<u>SE</u>
1060	Q9.0 Q9.1	Nike. Because of the areas on the page that say Nike. The compression shirt also has the Nike logo.
1061	Q9.0 Q9.1	Nike. Company name is Nike. It is the Nike store.
1062	Q9.0 Q9.1	Nike. Has the famous logo on left side.
1063	Q9.0 Q9.1	Nike brand. I see the company name.
1065	Q9.0 Q9.1	Nike. Nike logo appears at the top of the webpage and on the clothing.
1066	Q9.0 Q9.1	Nike +. It in the upper left-hand corner.
1068	Q9.0 Q9.1	Nike. The Nike Swoosh.
1069	Q9.0 Q9.1	Nike online store. Website address.
1070	Q9.0 Q9.1	Nike. Its the brand on the website.
1071	Q9.0 Q9.1	Nike. I see the name.
1072	Q9.0 Q9.1	Nike Pro. That's what it said was the company it was.
1073	Q9.0 Q9.1	This clothing is made by the Nike brand. This clothing is made by the Nike brand.
1074	Q9.0 Q9.1	Nike. Logo.
1075	Q9.0 Q9.1	Nike. It says so on the page.
1076	Q9.0 Q9.1	Nike. Logo.

- 20 -**TEST CELL** 

Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 50 of 235 Q9.0 Who do you believe makes or puts out this product? Please be as specific as possible.

Q9.1 Why do you say that? Again, please be as specific as possible.

RESPONSE CATEGORY 2: Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc.) continued

DECDONDENT		continued
RESPONDENT NUMBER	RESPONS	S <u>E</u>
1077	Q9.0 Q9.1	Nike. Because it is a reliable brand and its logo is clear and reliable.
1078	Q9.0 Q9.1	Nike. Nike.
1079	Q9.0 Q9.1	Nike. I see the word written.
1080	Q9.0 Q9.1	Nike. It says the name of the brand and I can see the logo.
1081	Q9.0 Q9.1	Nike. I see the word Nike on the shirt.
1082	Q9.0 Q9.1	Nike. Its got the logo and it says Nike.
1083	Q9.0 Q9.1	Nike. It says so.
1084	Q9.0 Q9.1	Nike. The brand is shown.
1086	Q9.0 Q9.1	Nike. Don't know.
1087	Q9.0 Q9.1	Nike. The logo is on the shirt and it is the first word in the name.
1088	Q9.0 Q9.1	Nike. Because I seen Nike brand logo.
1089	Q9.0 Q9.1	Nike. Nike made this product.
1090	Q9.0 Q9.1	Nike Pro. Nike Pro.
1091	Q9.0 Q9.1	Nike. Because it says Nike Pro Cool and the web address is also from the Nike website.
1092	Q9.0 Q9.1	Nike. It got the Nike logo on it.

- 21 -**TEST CELL**  Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 51 of 235 Q9.0 Who do you believe makes or puts out this product? Please be as specific as possible.

Q9.1 Why do you say that? Again, please be as specific as possible.

# RESPONSE CATEGORY 2: Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc.) continued

RESPONDENT		continued	
<u>NUMBER</u>	RESPONSE		
1093	Q9.0 Q9.1	Nike. I believe it is Nike because the Nike symbol can be seen throughout the website and is shown on the shirt. I also know it is Nike because the word "Nike" can be seen throughout the site.	
1094	Q9.0 Q9.1	Nike. It says in the advertising.	
1096	Q9.0 Q9.1	Nike. Because I can clearly see the Nike logo.	
1097	Q9.0 Q9.1	It's Nike. Product name.	
1098	Q9.0 Q9.1	Nike. I saw the logo of Nike.	
1099	Q9.0 Q9.1	Nike. The Nike check is on the shirt, it has Nike Pro on description.	
1100	Q9.0 Q9.1	Nike. It is the Nike website.	
1101	Q9.0 Q9.1	Nike. It says so on the website.	
1102	Q9.0 Q9.1	Nike. Nike.	
1103	Q9.0 Q9.1	Its Nike. It from their company.	
1104	Q9.0 Q9.1	Nike. It is the Nike website, the shirt has the Nike logo, the description says "Nike."	
1105	Q9.0 Q9.1	Nike. Nike.	
1106	Q9.0 Q9.1	Nike. It is apparent on the webpage.	
1107	Q9.0 Q9.1	Nike. The website is Nike.com.	

- 22 -**TEST CELL**  Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 52 of 235 Q9.0 Who do you believe makes or puts out this product? Please be as specific as possible.

Q9.1 Why do you say that? Again, please be as specific as possible.

# RESPONSE CATEGORY 2: Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc.) continued

RESPONDENT NUMBER	RESPONS	continued
NUMBER	KESPONS	<u>) C</u>
1108	Q9.0 Q9.1	Nike. I see the Nike logo in the shirt and the product description to the right states that it is a Nike Pro Cool Compression Long-Sleeve.
1109	Q9.0 Q9.1	Nike. It says Nike Pro Cool Compression Long-Sleeve.
1110	Q9.0 Q9.1	Nike. The logo on the clothes and the fact that it says Nike on the description. The browser also seems to be from a Nike page.
1111	Q9.0 Q9.1	Nike. Nike Swoosh.
1112	Q9.0 Q9.1	Nike. It says Nike in several places on the webpage and/or shows the Nike emblem.
1113	Q9.0 Q9.1	Nike. Nike sportswear.
1114	Q9.0 Q9.1	Nike them. It is in the description in the lay out.
1115	Q9.0 Q9.1	It's awesome. Wonderful.
1117	Q9.0 Q9.1	Nike. It's listed in the product's title, as well as the website name. The website address reads "store.Nike.com".
1118	Q9.0 Q9.1	Nike. I read the page and saw the logo.
1119	Q9.0 Q9.1	Nike. Advertisement.
1120	Q9.0 Q9.1	Nike Pro. Nike Pro men's running.
1122	Q9.0 Q9.1	Nike. It's the Nike website and Nike is in the name of the product.
1123	Q9.0 Q9.1	Nike. The logo.

- 23 -**TEST CELL** 

Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 53 of 235 Q9.0 Who do you believe makes or puts out this product? Please be as specific as possible.

Q9.1 Why do you say that? Again, please be as specific as possible.

### RESPONSE CATEGORY 2: Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc.) continued

RESPONDENT	DECDONG	continued
<u>NUMBER</u>	RESPONS	<u>)                                    </u>
1124	Q9.0 Q9.1	Nike. It says Nike. The Swoosh is Nike's symbol.
1125	Q9.0 Q9.1	Nike brand. It's good brand.
1126	Q9.0 Q9.1	Nike. Because it's a Nike shirt.
1128	Q9.0 Q9.1	Nike. It's a Nike branded product on the Nike store's website.
1129	Q9.0 Q9.1	Nike. Don't know.
1130	Q9.0 Q9.1	Nike. I see Nike brand on up page.
1131	Q9.0 Q9.1	Nike. It's called Nike Pro Cool Compression Long-Sleeve.
1132	Q9.0 Q9.1	For man, Nike Product. It so nice and fits for man.
1133	Q9.0 Q9.1	Nike. The logo on the shirt.
1134	Q9.0 Q9.1	Nike. The brand is clearly shown.
1136	Q9.0 Q9.1	Nike. Its brand.
1137	Q9.0 Q9.1	Nike. I say Nike put out this product because there is a Nike logo on the shirt.
1138	Q9.0 Q9.1	Nike. The Nike logo is featured everywhere.
1139	Q9.0 Q9.1	Nike. Because it's in part of the name of the shirt, and there is a Nike check on the shirt.
1140	Q9.0 Q9.1	Nike. Because of the brand of the shirt.

- 24 -**TEST CELL**  Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 54 of 235 Q9.0 Who do you believe makes or puts out this product? Please be as specific as possible.

Q9.1 Why do you say that? Again, please be as specific as possible.

### RESPONSE CATEGORY 2: Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc.) continued

		continued
RESPONDENT		
NUMBER	RESPONS	<u>DE</u>
1141	Q9.0 Q9.1	Nike. It is Nike.com.
1142	Q9.0 Q9.1	Nike. Nike because the website said Nike. I recognized the branding label and Nike is in the product line.
1143	Q9.0 Q9.1	Nike. Because it says Nike.
1144	Q9.0 Q9.1	A white Nike brand sweatshirt at a good price. Because it's what I can see in the image of the ad, it's easy to understand.
1145	Q9.0 Q9.1	Nike. I see the word Nike as well as the logo.
1147	Q9.0 Q9.1	Nike. Nike logo on the shirt, Nike website at the top of the page, Nike logo is all over the page.
1148	Q9.0 Q9.1	Nike. Branding in the top left corner of the website, branding on the shirt, 'Nike' displayed in the product description.
1149	Q9.0 Q9.1	Because the different colors that are available to the consumer and because is such a cheap price for Nike and available at the click of a mouse.  Because, Nike is one of the most popular brands and it is available in many colors at the click of a button for a cheap price. Shipped straight to your house.
1150	Q9.0 Q9.1	Nike. It says Nike and I see the Swoosh.
1151	Q9.0 Q9.1	Nike. It says Nike in the ad, in the toolbar, plus the shirt has a Nike logo on it.
1152	Q9.0 Q9.1	Nike. Because it has the Nike signage on the shirt.
1153	Q9.0 Q9.1	Product is made and put out by Nike. Nike logo in the top left corner of the webpage, the site address reads "store.Nike.com." Product name is Nike Pro Cool Compression Long-Sleeve. Asks for a membership to join Nike+.

- 25 -**TEST CELL**  Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 55 of 235 Q9.0 Who do you believe makes or puts out this product? Please be as specific as possible.

Q9.1 Why do you say that? Again, please be as specific as possible.

# RESPONSE CATEGORY 2: Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc.) continued

RESPONDENT		continued	
NUMBER	RESPONSE		
1154	Q9.0 Q9.1	Nike. Because the URL say's "Nike" and I have purchased items off of Nike.com before.	
1156	Q9.0 Q9.1	Nike. It's in the name of the product and the name of the store.	
1157	Q9.0 Q9.1	Nike. Nike.	
1158	Q9.0 Q9.1	Nike. It says Nike on the screen shot and then symbol.	
1159	Q9.0 Q9.1	Nike. Nike.	
1160	Q9.0 Q9.1	Nike. It says Nike on the website, the description, and has the Swoosh on the shirt.	
1161	Q9.0 Q9.1	Nike. Because of the logo.	
1162	Q9.0 Q9.1	Nike. Nike on shirt.	
1163	Q9.0 Q9.1	Nike. Nike because it has the logo on the long sleeve.	
1164	Q9.0 Q9.1	Nike. Nike logo, Nike in description text.	
1165	Q9.0 Q9.1	Nike. Nike.	
1166	Q9.0 Q9.1	Nike, the symbol says it all. I know it anywhere. Nike. I know that brand anywhere as it is very famous and prominent.	
1168	Q9.0 Q9.1	Nike. Said it and logo.	
1169	Q9.0 Q9.1	Nike. Nike because there is a logo on the shirt.	

- 26 -**TEST CELL**  Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 56 of 235 Q9.0 Who do you believe makes or puts out this product? Please be as specific as possible.

Q9.1 Why do you say that? Again, please be as specific as possible.

RESPONSE CATEGORY 2: Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc.) continued

RESPONDENT		Continued
<u>NUMBER</u>	RESPONS	<u>ot</u>
1170	Q9.0	Nike.
	Q9.1	Because I saw the sign of the Nike.
1171	Q9.0	Nike.
	Q9.1	It shows Nike on the shirt.
1172	Q9.0	Nike.
	Q9.1	The logo.
1173	Q9.0	Nike.
	Q9.1	It says Nike in the web address, there are Nike logos everywhere.
1174	Q9.0	Nike.
	Q9.1	It clearly states it in bold letters on the ad.
1175	Q9.0	Nike Pro compression long-sleeve.
	Q9.1	Their different color.
1176	Q9.0	Nike.
	Q9.1	Label.
1177	Q9.0 Q9.1	Nike.
		It have's the Nike logo.
1180	Q9.0 <b>Q</b> 9.1	Nike. I think its Nike.
	Q9.1	THINK IS NIKE.
1181	Q9.0 <b>Q</b> 9.1	Nike. It's unique and very different.
	Q9.1	it's unique and very unierent.
1182	Q9.0	Nike
	Q9.1	It's very style.
1184	Q9.0	Nike.
	Q9.1	It has the Nike Swoosh logo on the shirt.
1185	Q9.0 Q9.1	Nike Pro Cool Compression Long-Sleeve.
	Q9. I	It was the product name. Nike brand men's t-shirt.
1186	Q9.0 Q9.1	Nike. Says so.
1187	Q9.0 Q9.1	I know for sure it's gonna be Nike. It's pretty obvious given that the logo is on the shirt.
	<u> </u>	o p. o j oo maad great mat me logo to on the orm to

- 27 -**TEST CELL**  Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 57 of 235 Q9.0 Who do you believe makes or puts out this product? Please be as specific as possible.

Q9.1 Why do you say that? Again, please be as specific as possible.

### RESPONSE CATEGORY 2: Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc.) continued

RESPONDENT		
<u>NUMBER</u>	RESPONS	<u>SE</u>
1189	Q9.0 Q9.1	Nike Pro Cool. Nike Pro.
1190	Q9.0 Q9.1	Nike. Because it is a relevant brand.
1191	Q9.0 Q9.1	Nike. I can read "Nike Pro Cool Compression Long-Sleeve."
1192	Q9.0 Q9.1	Nike. Why is the brand that is presented.
1194	Q9.0 Q9.1	Yes, believe me and take this product because this is Nike brand product. This is Nike brands long sleeve. I like this.
	Q 7. 1	This is time braines long sleeve. I like this.
1195	Q9.0 Q9.1	Nike brand. I like this brand.
1196	Q9.0 Q9.1	Nike. Nike +.
1197	Q9.0 Q9.1	Nike. Nike because I notice the brand.
1198	Q9.0 Q9.1	Nike. Logo.
1200	Q9.0 Q9.1	Nike. Nike makes this product.

- 28 -**TEST CELL** 

Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 58 of 235 Q9.0 Who do you believe makes or puts out this product? Please be as specific as possible.

Q9.1 Why do you say that? Again, please be as specific as possible.

RESPONSE CATEGORY 3: Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc.) plus

		Other
RESPONDENT	•	
NUMBER	RESPONS	<u>SE</u>
1067	Q9.0	Nike or Kohl's.
	Q9.1	Looks like Kohl's website.
1146	Q9.0 Q9.1	The Nike company with the help of athletes. Because this is a sporting company so in order for them to know what athletes want the company should consult with the industry they are trying to sell to.

- 29 -**TEST CELL** 

Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 59 of 235 Q9.0 Who do you believe makes or puts out this product? Please be as specific as possible.

Q9.1 Why do you say that? Again, please be as specific as possible.

### RESPONSE CATEGORY 4: Other

RESPONDENT NUMBER	RESPONS	<u>SE</u>
1178	Q9.0	The compression shirt is breathable. A person will feel less
	Q9.1	overheating when participating in physical activities. When people are engaged in physical activities they tend to feel overheated.
1188	Q9.0 Q9.1	I believe a seller or business that sells clothing has this page. It looks professional.
1116	Q9.0 Q9.1	Adidas. I think because of the logo.

- 30 -**TEST CELL** 

- Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 60 of 235 Q9.0 Who do you believe makes or puts out this product? Please be as specific as possible.
- Q9.1 Why do you say that? Again, please be as specific as possible.

### RESPONSE CATEGORY 5: Don't know / None

RESPONDENT
NUMBER
1022
1032
1046
1064
1085
1095
1121
1127
1135
1155
1167
1179
1183
1193
1199

- 31 -**TEST CELL** 

### TABLE 2

### TEST CELL

Q10.0 What other brand or brands, if any, do you believe are made or put out by whoever makes or puts out this product? Please be as specific as possible.

Q10.1 Why do you say that? Again, please be as specific as possible.

	Response Distribution			
		·	Dedup	olicated
Response Categories	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
		(n=200)		(n=200)
<ol> <li>Lontex / Sweat It Out / Cool Compression</li> </ol>				
<ol><li>Nike and its brands (e.g., Nike Pro, Hurley, Jordan, etc.)</li></ol>	63	31.50	3	1.50
<ol><li>Nike and its brands (e.g., Nike Pro, Hurley, Jordan, etc.) plus Other</li></ol>	1	0.50		
4. Other	22	11.00		
5. Don't know / None	<u>114</u>	57.00		
Total	200	100.00		

### RESPONSE CATEGORIES Questions 10.0 through 10.1

### TEST CELL

- 1. Lontex / Sweat It Out / Cool Compression
- 2. Nike and its brands (e.g., Nike Pro, Hurley, Jordan, etc.)
- 3. Nike and its brands (e.g., Nike Pro, Hurley, Jordan, etc.) plus Other
- 4. Other
- 5. Don't know / None

- 33 - TEST CELL

### SURVEY RESPONSES TEST CELL

Q10.0 What other brand or brands, if any, do you believe are made or put out by whoever makes or puts out this product? Please be as specific as possible.Q10.1 Why do you say that? Again, please be as specific as possible.

RESPONSE CATEGORY 1: Lontex / Sweat It Out / Cool Compression

There are no responses in this category.

Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 64 of 235 Q10.0 What other brand or brands, if any, do you believe are made or put out by whoever makes or puts out this product? Please be as specific as possible. Q10.1 Why do you say that? Again, please be as specific as possible.

RESPONSE CATEGORY 2: Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc.)

RESPONDENT NUMBER	RESPONS	<u>SE</u>
*1001	Q10.0 Q10.1	This is all by Nike. By the HTML link.
*1002	Q10.0 Q10.1	Just Nike. Easy to tell.
*1003	Q10.0 Q10.1	Nike. Nike.
*1009	Q10.0 Q10.1	Hurley. It says Hurley.
*1012	Q10.0 Q10.1	Nike. The Nike brand logo is on the web page.
*1017	Q10.0 Q10.1	Nike only. Because it is the leader in this industry.
*1018	Q10.0 Q10.1	Nike only. It shows Nike only.
*1021	Q10.0 Q10.1	Hurley. I see it at the top left of the page in the black bar.
*1023	Q10.0 Q10.1	Hurley. It shows the brand name and logo.
*1028	Q10.0 Q10.1	Nike. Wow, amazing Nike product.
*1029	Q10.0 Q10.1	Nike. Nike.
*1031	Q10.0 Q10.1	Air Jordan and Hurley. I can see the Air Jordan logo and the Hurley logo at the top of the page.
*1036	Q10.0 Q10.1	This Nike product has perfect. All us better. Nike product has best provided. All us better.
*1040	Q10.0 Q10.1	Nike Pro. Its ad.

Note: Answers coded as a Nike category response in previous question are marked with an asterisk.

- 35 - TEST CELL

# Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 65 of 235 Q10.0 What other brand or brands, if any, do you believe are made or put out by whoever makes or puts out this product? Please be as specific as possible.

Q10.1 Why do you say that? Again, please be as specific as possible.

RESPONSE CATEGORY 3: Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc.) continued

		continued
RESPONDENT NUMBER		SE.
NOWBER	KESPON	<u> </u>
*1041	Q10.0 Q10.1	Hurley. I saw the Hurley logo at the top of the webpage.
*1044	Q10.0 Q10.1	Hurley because I also receive emails from Hurley from Nike. It says it at the top of the page with the logo along with. I know this because I also receive emails from Hurley.
*1060	Q10.0 Q10.1	Hurley. Because at the upper right corner it says shop Nike and Hurley.
*1061	Q10.0 Q10.1	Hurley and Jordan. Their names are also up at the top of the page. Nike is a brand that only sells its own stuff.
*1063	Q10.0 Q10.1	Nike air. The company also makes the product.
*1066	Q10.0 Q10.1	Hurley. It is in the upper left-hand corner.
*1070	Q10.0 Q10.1	Hurley. It's the other brand I see on the website.
*1074	Q10.0 Q10.1	Hurley. Hurley listed next to Nike on Black Bar.
*1075	Q10.0 Q10.1	Nike only. It is a Nike webpage.
*1079	Q10.0 Q10.1	Nike. I see it.
*1088	Q10.0 Q10.1	It's make only Nike. Because I seen fluently Nike brand logo and name.
*1090	Q10.0 Q10.1	Nike Pro. Nike Pro.
*1091	Q10.0 Q10.1	Shoes, other athletic wear (shirts, pants, socks). Because I'm familiar with Nike and the products they sell.
*1094	Q10.0 Q10.1	Other Nike clothes. I have seen them.

- 36 - TEST CELL

Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 66 of 235 Q10.0 What other brand or brands, if any, do you believe are made or put out by whoever makes or puts out this product? Please be as specific as possible. Q10.1 Why do you say that? Again, please be as specific as possible.

RESPONSE CATEGORY 3: Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc.) continued

RESPONDENT		continued
	RESPONS	<u>SE</u>
*1098	Q10.0 Q10.1	Nike brand. The logo of Nike reflect the brand enough.
*1103	Q10.0 Q10.1	Nike. It looks that way.
*1107	Q10.0 Q10.1	Jordan. Jordan is brand of Nike.
*1108	Q10.0 Q10.1	Jordan. Jordan is a brand up under Nike. That is a known fact.
*1109	Q10.0 Q10.1	Hurley. The brand is listed at the top.
*1112	Q10.0 Q10.1	Hurley. It also shows Hurley on the top tool bar.
*1117	Q10.0 Q10.1	Jordan and Hurley. The logos for both brands are at the top of the webpage, under the website address.
*1122	Q10.0 Q10.1	Hurley. Hurley is in the headline.
*1123	Q10.0 Q10.1	Hurley. It's also on the website.
*1136	Q10.0 Q10.1	Nike. Its brand.
*1137	Q10.0 Q10.1	Jordan and Hurley. I see their logo in the top left.
*1143	Q10.0 Q10.1	Nike Jumpman. Because it's listed.
*1144	Q10.0 Q10.1	Nike and Hurley. It is clear by the name of both brands in the ad.
*1145	Q10.0 Q10.1	Only Nike. It's Nike.

- 37 - TEST CELL

Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 67 of 235 Q10.0 What other brand or brands, if any, do you believe are made or put out by whoever makes or puts out this product? Please be as specific as possible. Q10.1 Why do you say that? Again, please be as specific as possible.

RESPONSE CATEGORY 3: Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc.) continued

		continued
RESPONDENT	DECDONG	·F
<u>NUMBER</u>	RESPONS	<u>) C</u>
*1148	Q10.0	Air Jordan and Hurley are displayed at the top of the page, leading me to believe those brands are child brands of Nike.
	Q10.1	The brands are displayed at the top of the page.
*1149	Q10.0 Q10.1	Nike. Idk.
*1151	Q10.0	Nike logos are embedded throughout the entire ad and the web URL says Nike so it is plainly obvious that this is Nike.
	Q10.1	For the reasons stated previously, it is clear that this is a Nike product.
*1152	Q10.0	No other brand is found on the the shirt. But there is a button on the left side that has a Hurley sign on it.
	Q10.1	Nike is the only image on the shirt.
*1153	Q10.0	It would appear that they are partnered with Hurley and I believe the brand is Jordan. As those logos are both depicted at the top of the web page.
	Q10.1	Both of those logos are depicted at the top left of the webpage.
*1154	Q10.0 Q10.1	Jordan brand, Converse.  I know the company.
*1157	Q10.0 Q10.1	Hurley. Hurley.
*1159	Q10.0 Q10.1	Jordan. Logo.
*1163	Q10.0 Q10.1	Just Nike. Because it clearly is all over the page.
*1165	Q10.0 Q10.1	Nike, Nike+, Jordan, Hurley. Listed at the top of the page.
*1168	Q10.0 Q10.1	Shoes, hats, socks, pants. I follow Nike.
*1173	Q10.0 Q10.1	Jordan. The logo is at the top of the screen.
1179	Q10.0 Q10.1	Nike. I see the Nike symbol on the model's shirt.

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Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 68 of 235 Q10.0 What other brand or brands, if any, do you believe are made or put out by whoever makes or puts out this product? Please be as specific as possible. Q10.1 Why do you say that? Again, please be as specific as possible.

RESPONSE CATEGORY 3: Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc.) continued

RESPONDENT		continued
NUMBER	RESPONS	<u>SE</u>
*1180	Q10.0 Q10.1	Since its Nike I would say shoes, socks, shirts. Nike so I would say shoes, shirts, socks.
*1181	Q10.0 Q10.1	Nike. It's very style.
*1182	Q10.0 Q10.1	Nike. I like it very much.
1183	Q10.0 Q10.1	Nike. It's obvious.
1188	Q10.0 Q10.1	I believe Nike has business with them. The logo on the shirt says it all.
*1189	Q10.0 Q10.1	Nike. Nike make compression sleeve.
*1195	Q10.0 Q10.1	Nike brand. For free shopping every time.
*1198	Q10.0 Q10.1	Nike. Logo of Nike.

- 39 - TEST CELL

Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 69 of 235 Q10.0 What other brand or brands, if any, do you believe are made or put out by whoever makes or puts out this product? Please be as specific as possible. Q10.1 Why do you say that? Again, please be as specific as possible.

RESPONSE CATEGORY 3: Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc.) plus Other

	Other
RESPONS	<u>SE</u>
Q10.0	Nike shirts sponsored by the NBA.
Q10.1	The NBA logo is seen.
Q10.0	Jordan brand, Converse.
Q10.1	I know the company.
	Q10.0 Q10.1 Q10.0

- 40 - TEST CELL

Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 70 of 235 Q10.0 What other brand or brands, if any, do you believe are made or put out by whoever makes or puts out this product? Please be as specific as possible. Q10.1 Why do you say that? Again, please be as specific as possible.

### **RESPONSE CATEGORY 4: Other**

RESPONDENT NUMBER		<u>SE</u>
1004	Q10.0	Could be Under Armour as they use compression fabrics extensively.
	Q10.1	Under armor uses lots of compression fabrics.
1006	Q10.0 Q10.1	Shoes. Seen them.
1030	Q10.0 Q10.1	Women's, girls, boys athletic attire. I see the menu options for other searching options.
1049	Q10.0 Q10.1	Puma. Because it's nice.
1057	Q10.0 Q10.1	Adidas brand I like too. This brand is one of best.
1059	Q10.0 Q10.1	Amazon. Don't know.
1069	Q10.0	Academy Sporting & Outdoors, Dick's Sporting Goods, JC
	Q10.1	Penney, Kohl's, Macy's, Finish Line. All mentioned carry Nike brand and have athletic clothing for sale.
1077	Q10.0 Q10.1	Adidas. Because it is reliable and its logo is reliable.
1078	Q10.0 Q10.1	Yes. Yes.
1096	Q10.0 Q10.1	Under Armor. It looks like a type of shirt you can find there.
1097	Q10.0 Q10.1	Adidas, Puma etc. Produce same product.
1106	Q10.0 Q10.1	Adidas. I have heard of that product as well.
1110	Q10.0	This could be a sports apparel store since it has a Jordan logo in the top left also.
	Q10.1	I can see other logos on the page.
1124	Q10.0 Q10.1	It shows And 1 at the top so maybe them. The logo is at the top.

- 41 - TEST CELL

### RESPONSE CATEGORY 4: Other continued

RESPONDENT NUMBER	RESPONS	<u>SE</u>
1125	Q10.0 Q10.1	Adidas. It's also another good brand.
1128	Q10.0 Q10.1	Eastbay and Foot Locker that sell sports apparel. Those stores sell sports apparel.
1146	Q10.0 Q10.1	Adidas and Reebok. Because those are also athletic stores.
1164	Q10.0 Q10.1	Under Armour. Probably made in same factory.
1174	Q10.0 Q10.1	Under Armour, Adidas, Lululemon. Because you asked what other brands came to mind.
1178	Q10.0 Q10.1	Adidas. Adidas is another athletic apparel company.
1194	Q10.0 Q10.1	Many other's brand I like but mostly Nike best. This is good product in Nike products.
1196	Q10.0 Q10.1	Adidas. Adidas.

- 42 - TEST CELL

### RESPONSE CATEGORY 5: Don't know / None

RESPONDENT NUMBER	RESPONDENT NUMBER	RESPONDENT NUMBER
1005	1068	1135
1007	1071	1138
1008	1072	1139
1010	1073	1140
1011	1076	1141
1013	1080	1142
1014	1081	1147
1015	1082	1150
1016	1083	1155
1019	1084	1156
1022	1085	1158
1024	1086	1160
1025	1087	1161
1026	1089	1162
1027	1092	1166
1032	1093	1167
1033	1095	1169
1034	1099	1170
1035	1100	1171
1037	1101	1172
1038	1102	1175
1039	1104	1176
1042	1105	1177
1043	1111	1184
1045	1113	1185
1046	1114	1186
1047	1115	1187
1048	1116	1190
1050	1118	1191
1051	1119	1192
1052	1120	1193
1053	1121	1197
1054	1126	1199
1055	1127	1200
1056	1129	
1058	1130	
1062	1131	
1064	1132	
1065	1133 1134	
1067	1134	

- 43 - TEST CELL

#### TABLE 3

### TEST CELL

- Q11.0 Do you believe this product...?
  - 1. <u>IS</u> being made or put out with the authorization or approval of any other brand(s) or company(s)
  - 2. is <u>NOT</u> being made or put out with the authorization or approval of any other brand(s) or company(s)
  - 3. don't know or have no opinion
- Q11.1 What brand(s) or company(s)? Please be as specific as possible.
- Q11.2 Why do you say that? Again, please be as specific as possible.

			Response I	Distribution	l
				Dedup	licated
Re	esponse Categories	<u>Number</u>	Percent (n=200)	<u>Number</u>	Percent (n=200)
•	Is being made or put out with authorization or approval				
	<ol> <li>Lontex / Sweat It Out / Cool Compression</li> </ol>				
	<ol><li>Nike and its brands (e.g., Nike Pro, Hurley, Jordan, etc.)</li></ol>	64	32.00		
	<ol><li>Nike and its brands (e.g., Nike Pro, Hurley, Jordan, etc.) plus Other</li></ol>	1	0.50		
	4. Other	8	4.00		
	5. Don't know / None	_32	<u>16.00</u>		
	Subtotal	105	52.50		
•	Is not being made or put out with authorization or approval	52	26.00		
•	Don't know/no opinion	<u>43</u>	21.50		
	Total	200	100.00		

## RESPONSE CATEGORIES Questions 11.0 through 11.2

### TEST CELL

- Is being made or put out with authorization or approval of any other brand(s) or company(s)
  - 1. Lontex / Sweat It Out / Cool Compression
  - 2. Nike and its brands (e.g., Nike Pro, Hurley, Jordan, etc.)
  - 3. Nike and its brands (e.g., Nike Pro, Hurley, Jordan, etc.) plus Other
  - 4. Other
  - 5. Don't know / None

### SURVEY RESPONSES TEST CELL

- Q11.0 Do you believe this product...?
  - <u>IS</u> being made or put out with the authorization or approval of any other brand(s) or company(s)
- Q11.1 With what brand(s) or company(s)? Please be as specific as possible.
- Q11.2 Why do you say that? Again, please be as specific as possible.

RESPONSE CATEGORY 1: Is being made or put out with authorization or approval...

- Lontex / Sweat It Out / Cool Compression

There are no responses in this category

- 46 - TEST CELL

## Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 76 of 235 Q11.0 Do you believe this product...?

- IS being made or put out with the authorization or approval of any other brand(s) or company(s)
- Q11.1 With what brand(s) or company(s)? Please be as specific as possible.
- Q11.2 Why do you say that? Again, please be as specific as possible.

RESPONSE CATEGORY 2: Is being made or put out with authorization or approval...

- Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc.) continued

RESPONDENT NUMBER	RESPONS	SE
*1002	Q11.1 Q11.2	Nike. You keep asking the same question.
*1003	Q11.1 Q11.2	Nike. Nike.
*1005	Q11.1 Q11.2	Nike. Innovative.
*1008	Q11.1 Q11.2	Nike. Says Nike.
*1009	Q11.1 Q11.2	Hurley. The logos in the bar say Nike and Hurley.
*1011	Q11.1 Q11.2	Nike. Nike.
*1012	Q11.1 Q11.2	Nike. The logo of the Nike brand is the only one on the web page.
*1019	Q11.1 Q11.2	Nike. It's their website.
*1020	Q11.1 Q11.2	With the Nike brand. It is a very recognized brand.
*1022	Q11.1 Q11.2	Nike. Says it.
*1028	Q11.1 Q11.2	Nike. Nike, brand is very good product brand.
*1031	Q11.1 Q11.2	Air Jordan and Hurley. As their logos are visible, I would assume they have given the okay for the product.

Note: Answers coded as a Nike category response in previous question(s) are marked with an asterisk.

- 47 - TEST CELL

## Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 77 of 235 Q11.0 Do you believe this product...?

- IS being made or put out with the authorization or approval of any other brand(s) or company(s)
- With what brand(s) or company(s)? Please be as specific as possible. Q11.1
- Q11.2 Why do you say that? Again, please be as specific as possible.

RESPONSE CATEGORY 2: Is being made or put out with authorization or approval...

- Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc.) continued

RESPONDENT		Continued		
NUMBER RESPONSE				
*1034	Q11.1 Q11.2	Nike. The Nike symbol.		
*1035	Q11.1 Q11.2	Nike. Headline and URL.		
*1036	Q11.1 Q11.2	This is Nike brand. Love it this company. Nike brand has good provided. I love it.		
*1039	Q11.1 Q11.2	Nike. Models.		
*1040	Q11.1 Q11.2	Nike Pro. Its saw add.		
*1041	Q11.1 Q11.2	Nike, Hurley. Because those are the two brands listed beside the shop on the top of the web page.		
*1055	Q11.1 Q11.2	Nike. It has their name and logo on the shirt.		
*1057	Q11.1 Q11.2	Hurley X. In the page they mentioned.		
*1058	Q11.1	Nike in the products description, Nike "Swoosh" on the page, Nike in the web address.		
	Q11.2	Nike is on the page in several places.		
*1063	Q11.1 Q11.2	Nike. I see Nike at the top and advertising.		
*1068	Q11.1 Q11.2	Nike. Same answer as before.		
*1070	Q11.1 Q11.2	Yes Nike or Jordan. It's their brand on their website.		
*1072	Q11.1 Q11.2	Nike shoes. It would violate infringement rights if it wasn't.		

- 48 -**TEST CELL** 

## Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 78 of 235 Q11.0 Do you believe this product...?

- <u>IS</u> being made or put out with the authorization or approval of any other brand(s) or company(s)
- Q11.1 With what brand(s) or company(s)? Please be as specific as possible.
- Q11.2 Why do you say that? Again, please be as specific as possible.

RESPONSE CATEGORY 2: Is being made or put out with authorization or approval...

- Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc.)
continued

RESPONDENT NUMBER	RESPONSE			
*1075	Q11.1 Q11.2	Nike. It is their webpage.		
*1078	Q11.1 Q11.2	Nike. Nike.		
*1079	Q11.1 Q11.2	Nike. I see it.		
*1080	Q11.1 Q11.2	Nike. Shows it.		
*1082	Q11.1 Q11.2	Nike. Nike is all over the page.		
*1088	Q11.1 Q11.2	Nike. Because I seen it clearly.		
*1090	Q11.1 Q11.2	Nike Pro. Nike Pro.		
*1092	Q11.1 Q11.2	Nike. It's clearly Nike logo on it.		
*1094	Q11.1 Q11.2	Nike. It says on ad.		
*1097	Q11.1 Q11.2	Nike ACG. It is.		
*1098	Q11.1 Q11.2	Nike. The logo is from Nike.		
*1099	Q11.1 Q11.2	Nike. Its URL is store Nike.		
*1108	Q11.1 Q11.2	Nike. Nike is all over product description.		
*1109	Q11.1 Q11.2	Hurley. They allow their name to be used on the site.		

- 49 - TEST CELL

## Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 79 of 235 Q11.0 Do you believe this product...?

- IS being made or put out with the authorization or approval of any other brand(s) or company(s)
- With what brand(s) or company(s)? Please be as specific as possible. Q11.1
- Q11.2 Why do you say that? Again, please be as specific as possible.

RESPONSE CATEGORY 2: Is being made or put out with authorization or approval...

- Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc.) continued

RESPONDENT NUMBER	RESPONS	continued
*1114	Q11.1	It is a Nike product.
*1119	Q11.2 Q11.1	It is in the layout page.  Nike.
	Q11.2	Advertisement.
*1123	Q11.1 Q11.2	Nike. The Nike website.
*1128	Q11.1 Q11.2	Nike. It's Nike branded on the Nike website.
*1131	Q11.1 Q11.2	Nike. It looks like the Nike website.
*1136	Q11.1 Q11.2	Nike. Its authorize brand.
*1138	Q11.1 Q11.2	Nike. Well, this is their site with their logo everywhere.
*1141	Q11.1 Q11.2	Nike. Don't know.
*1142	Q11.1 Q11.2	Nike. Because this is their product and design with their company logo attached to it.
*1144	Q11.1 Q11.2	Nike along with Hurley. The announcement clearly shows that both brands are linked.
*1145	Q11.1 Q11.2	Nike. Nike.
*1150	Q11.1 Q11.2	Nike. Because it's a Nike site and it's a Nike product.
*1156	Q11.1 Q11.2	Nike. It's in the name of the product and the store.
*1160	Q11.1 Q11.2	Nike. It's on their official website.

- 50 -**TEST CELL** 

## Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 80 of 235 Q11.0 Do you believe this product...?

- IS being made or put out with the authorization or approval of any other brand(s) or company(s)
- With what brand(s) or company(s)? Please be as specific as possible. Q11.1
- Q11.2 Why do you say that? Again, please be as specific as possible.

RESPONSE CATEGORY 2: Is being made or put out with authorization or approval... - Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc.)

continued

RESPONDENT		Continued
NUMBER	RESPONS	<u>SE</u>
*1163	Q11.1 Q11.2	Nike, the tennis clothing company. Because that's the answer I chose.
*1165	Q11.1 Q11.2	Nike. Listed in product description.
*1170	Q11.1 Q11.2	Nike. Had a sign on it.
*1171	Q11.1 Q11.2	Nike. It shows name on shirt.
*1179	Q11.1 Q11.2	Nike. I see the Nike symbol.
*1185	Q11.1 Q11.2	Nike. Seen in the product image.
*1189	Q11.1 Q11.2	Nike. Amazon sell Nike.
*1194	Q11.1 Q11.2	Nike brand. I like it. Mostly I like Nike brand.
*1196	Q11.1 Q11.2	Nike. Nike.
*1197	Q11.1 Q11.2	Hurley. On top of the border it says Hurley and Jordan logo.
*1198	Q11.1 Q11.2	Nike. Nike.

- 51 -**TEST CELL** 

## Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 81 of 235 Q11.0 Do you believe this product...?

- <u>IS</u> being made or put out with the authorization or approval of any other brand(s) or company(s)
- Q11.1 With what brand(s) or company(s)? Please be as specific as possible.
- Q11.2 Why do you say that? Again, please be as specific as possible.

RESPONSE CATEGORY 3: Is being made or put out with authorization or approval...

- Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc.)
plus Other

### **RESPONDENT**

### NUMBER RESPONSE

1110 Q11.1 Nike, Hurley, Jordan and Pinterest.

Q11.2 I see all of the logos on the page.

- 52 - TEST CELL

## Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 82 of 235 Q11.0 Do you believe this product...?

- IS being made or put out with the authorization or approval of any other brand(s) or company(s)
- With what brand(s) or company(s)? Please be as specific as possible. Q11.1
- Q11.2 Why do you say that? Again, please be as specific as possible.

### RESPONSE CATEGORY 4: Is being made or put out with authorization or approval... - Other

RESPONDENT		- Other
NUMBER	RESPONS	<u>SE</u>
1030	Q11.1	The only other company I notice is Pinterest, as there is a Pin It option.
	Q11.2	Same reason as before. Why do I have to answer every question twice?
1059	Q11.1 Q11.2	Prime. Don't know.
1077	Q11.1 Q11.2	Adidas. Because its motto is quality and reliability.
1124	Q11.1 Q11.2	And 1. The logos.
1125	Q11.1 Q11.2	Adidas. Lovely brand.
1154	Q11.1 Q11.2	Trademarked logo. Trademark infringement is illegal.
1164	Q11.1 Q11.2	Under Armour. They both market the same type of shirt.
1195	Q11.1 Q11.2	Trade companies. To support this brand.

- 53 -**TEST CELL** 

## Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 83 of 235 Q11.0 Do you believe this product...?

- <u>IS</u> being made or put out with the authorization or approval of any other brand(s) or company(s)
- Q11.1 With what brand(s) or company(s)? Please be as specific as possible.
- Q11.2 Why do you say that? Again, please be as specific as possible.

RESPONSE CATEGORY 5: Is being made or put out with authorization or approval...
- Don't know / None

NUMBER
1001
1013
1014
1046
1048
1051
1066
1085
1087
1093
1095
1096
1100
1105
1113
1115
1116
1121
1129
1133
1146
1148
1149
1153
1158
1166
1172
1173
1175
1176
1191
1192

**RESPONDENT** 

- 54 - TEST CELL

#### TABLE 4

### TEST CELL

- Q12.0 Do you believe that whoever makes or puts out this product...?
  - <u>HAS</u> a business affiliation or business connection with any other brand(s) or company(s)
  - does <u>NOT</u> have a business affiliation or business connection with any other brand(s) or company(s)
  - don't know or have no opinion
- Q12.1 With what brand(s) or company(s)? Please be as specific as possible.
- Q12.2 Why do you say that? Again, please be as specific as possible.

		Response	Distribution	
		•	•	olicated
	<u>Number</u>	Percent	<u>Number</u>	Percent
Has a business affiliation or business connection		(n=200)		(n=200)
<ol> <li>Lontex / Sweat It Out / Cool Compression</li> </ol>				
<ol><li>Nike and its brands (e.g., Nike Pro, Hurley, Jordan, etc.)</li></ol>	55	27.50	1	0.50
<ol><li>Nike and its brands (e.g., Nike Pro, Hurley, Jordan, etc.) plus Other</li></ol>	3	1.50		
4. Other	12	6.00		
5. Don't know / None	<u>24</u>	12.00		
Subtotal	94	47.00		
<ul> <li>Does not have a business affiliation or business connection</li> </ul>	58	29.00		
• Don't know / no opinion	<u>48</u>	24.00		
Total	200	100.00		

## RESPONSE CATEGORIES Questions 12.0 through 12.2

### TEST CELL

- Has a business affiliation or business connection with any other brand(s) or company(s)
  - 1. Lontex / Sweat It Out / Cool Compression
  - 2. Nike and its brands (e.g., Nike Pro, Hurley, Jordan, etc.)
  - 3. Nike and its brands (e.g., Nike Pro, Hurley, Jordan, etc.) plus Other
  - 4. Other
  - 5. Don't know / None

- 56 - TEST CELL

### SURVEY RESPONSES TEST CELL

- Q12.0 Do you believe that whoever makes or puts out this product...?
  - <u>HAS</u> a business affiliation or business connection with any other brand(s) or company(s)?
- Q12.1 With what brand(s) or company(s)? Please be as specific as possible.
- Q12.2 Why do you say that? Again, please be as specific as possible.

RESPONSE CATEGORY 1: Has a business affiliation or business connection...

- Lontex / Sweat It Out / Cool Compression

There are no responses in this category.

- 57 - TEST CELL

## Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 87 of 235 Q12.0 Do you believe that whoever makes or puts out this product...?

- HAS a business affiliation or business connection with any other brand(s) or company(s)
- With what brand(s) or company(s)? Please be as specific as possible. Q12.1
- Q12.2 Why do you say that? Again, please be as specific as possible.

RESPONSE CATEGORY 2: Has a business affiliation or business connection...

- Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc.) continued

	continued
RESPONS	<u>SE</u>
Q12.1	Nike.
Q12.2	Easy to tell.
Q12.1	Nike.
Q12.2	Nike.
Q12.1	Nike.
Q12.2	Don't know.
Q12.1	Nike.
Q12.2	Says Nike.
Q12.1	Hurley.
Q12.2	The bar at the top says Nike Hurley.
Q12.1	Nike.
Q12.2	Nike
Q12.1	Hurley.
Q12.2	Hurley is listed at the top of the page in the black bar.
Q12.1 Q12.2	Hurley. It shows both brands on the site.
Q12.1	Nike.
Q12.2	Nike, brand is very good product brand.
Q12.1	Nike, Air Jordan, Hurley.
Q12.2	The logos are visible at the top of the page for Nike, Air Jordan and Hurley.
Q12.1 Q12.2	Nike brand has good provided. Love it. Nike brand has good provided.
Q12.1	Nike.
Q12.2	Don't know.
Q12.1	Nike sports brand.
Q12.2	It's better option.
	Q12.1 Q12.2 Q12.1 Q12.2 Q12.1 Q12.2 Q12.1 Q12.2 Q12.1 Q12.2 Q12.1 Q12.2 Q12.1 Q12.2 Q12.1 Q12.2 Q12.1 Q12.2 Q12.1 Q12.2 Q12.1 Q12.2 Q12.1 Q12.2

Note: Answers coded as a Nike category response in previous question(s) are marked with an asterisk

> - 58 -**TEST CELL**

## Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 88 of 235 Q12.0 Do you believe that whoever makes or puts out this product...?

- HAS a business affiliation or business connection with any other brand(s) or company(s)
- With what brand(s) or company(s)? Please be as specific as possible. Q12.1
- Q12.2 Why do you say that? Again, please be as specific as possible.

### RESPONSE CATEGORY 2: Has a business affiliation or business connection...

- Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc.) continued

		continued
RESPONDENT	DECDONO	\
<u>NUMBER</u>	RESPONS	<u>bŁ</u>
*1044	Q12.1	Hurley and any other brand that they collaborate with such as Jordan's.
	Q12.2	I get emails from Nike very regularly and am familiar with the brand.
*1057	Q12.1 Q12.2	Hurley X. Visible in the page.
*1058	Q12.1 Q12.2	Nike. Nike is all over the page.
*1060	Q12.1 Q12.2	Nike and Hurley. Because of the upper right-hand corner of the page that says Nike and Hurley.
*1063	Q12.1 Q12.2	Nike and Hurley. They are specified at the top.
1067	Q12.1 Q12.2	Nike. It has the Nike Logo.
*1072	Q12.1 Q12.2	Nike apparel. Its the same brand.
*1074	Q12.1 Q12.2	Nike/Hurley. Both names on the black bar at top.
*1078	Q12.1 Q12.2	Nike. Nike.
*1082	Q12.1 Q12.2	Nike. Nike logo.
*1090	Q12.1 Q12.2	Nike Pro. Nike Pro.
*1092	Q12.1 Q12.2	Nike. Because they would get money selling it.
*1094	Q12.1 Q12.2	Nike. I can read it.

- 59 -**TEST CELL** 

## Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 89 of 235 Q12.0 Do you believe that whoever makes or puts out this product...?

- HAS a business affiliation or business connection with any other brand(s) or company(s)
- With what brand(s) or company(s)? Please be as specific as possible. Q12.1
- Q12.2 Why do you say that? Again, please be as specific as possible.

### RESPONSE CATEGORY 2: Has a business affiliation or business connection...

- Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc.) continued

continued RESPONDENT					
NUMBER		<u>SE</u>			
*1098	Q12.1 Q12.2	Nike. Nike is a well-known famous brand so must be they owned affiliations.			
*1109	Q12.1 Q12.2	Hurley. The brand is listed at the top.			
*1112	Q12.1 Q12.2	Hurley. They are part of the Nike company and are sold on the Nike website.			
*1114	Q12.1 Q12.2	Nike. For the third time, it is in the ad.			
*1117	Q12.1 Q12.2	Jordan and Hurley. The logos for both brands are at the top of the webpage.			
*1119	Q12.1 Q12.2	Nike. Advertising.			
*1122	Q12.1 Q12.2	Hurley. Hurley is in the black line on the top.			
*1123	Q12.1 Q12.2	Hurley. Its on the website.			
*1125	Q12.1 Q12.2	Nike. Good brand.			
*1129	Q12.1 Q12.2	Nike. Don't know.			
*1136	Q12.1 Q12.2	Nike. Its brand.			
*1137	Q12.1 Q12.2	Nike, Jordan and Hurley. I see their logos and I know Nike and Jordan have worked together before.			
*1141	Q12.1 Q12.2	Air Jordan. I know.			

- 60 -**TEST CELL** 

## Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 90 of 235 Q12.0 Do you believe that whoever makes or puts out this product...?

- HAS a business affiliation or business connection with any other brand(s) or company(s)
- With what brand(s) or company(s)? Please be as specific as possible. Q12.1
- Why do you say that? Again, please be as specific as possible. Q12.2

### RESPONSE CATEGORY 2: Has a business affiliation or business connection...

- Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc.) continued

RESPONDENT		continued
NUMBER	RESPONS	<u>SE</u>
*1143	Q12.1 Q12.2	Nike. It's on Nike.com.
*1144	Q12.1 Q12.2	Nike and Hurley. It is clear by the name of both brands in the ad.
*1148	Q12.1	Hurley, Air Jordan (technically children brands, but still other brands).
	Q12.2	It is displayed on the page.
*1153	Q12.1 Q12.2	Hurley and Jordan. Both of those logos are depicted in the top left of the webpage.
*1157	Q12.1 Q12.2	I believe Nike puts this put and has a connection with Hurley. I believe Nike puts this out and has a connection with Hurley.
*1158	Q12.1 Q12.2	Hurley. Saw the name displayed.
*1159	Q12.1 Q12.2	Jordan and Hurley. Logos in header.
*1161	Q12.1 Q12.2	Nike. Logo.
*1165	Q12.1 Q12.2	Jordan and Hurley. At top of page.
*1169	Q12.1 Q12.2	This is from Nike co. Because it says Nike.
*1172	Q12.1 Q12.2	Hurley. They sell that item.
*1188	Q12.1 Q12.2	Nike seems to be the only one. Because it says Nike Pro Cool.
*1194	Q12.1 Q12.2	Nike. Nike brand.
*1196	Q12.1 Q12.2	Nike. Nike.

- 61 -**TEST CELL** 

## Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 91 of 235 Q12.0 Do you believe that whoever makes or puts out this product...?

- HAS a business affiliation or business connection with any other brand(s) or company(s)
- With what brand(s) or company(s)? Please be as specific as possible. Q12.1
- Q12.2 Why do you say that? Again, please be as specific as possible.

RESPONSE CATEGORY 2: Has a business affiliation or business connection...

- Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc.) continued

## **RESPONDENT**

NUMBER	RESPON	<u>ISE</u>
*1197	Q12.1 Q12.2	Hurley. It says on top.
*1198	Q12.1 Q12.2	Nike. Logo.

- 62 -**TEST CELL** 

## Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 92 of 235 Q12.0 Do you believe that whoever makes or puts out this product...?

- HAS a business affiliation or business connection with any other brand(s) or company(s)
- With what brand(s) or company(s)? Please be as specific as possible. Q12.1
- Q12.2 Why do you say that? Again, please be as specific as possible.

### RESPONSE CATEGORY 3: Has a business affiliation or business connection...

- Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc.) plus Other

### **RESPONDENT** NUMBER

1110	Q12.1 Q12.2	Hurley, Jordan and peraps Pinterest. I see all of those posted on here on the page.
1124	Q12.1 Q12.2	Nike and And1. The logos are next to each other.
1180	Q12.1 Q12.2	Nike and NBA. Nike and NBA.

- 63 -**TEST CELL** 

# Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 93 of 235 Q12.0 Do you believe that whoever makes or puts out this product...?

- HAS a business affiliation or business connection with any other brand(s) or company(s)
- With what brand(s) or company(s)? Please be as specific as possible. Q12.1
- Q12.2 Why do you say that? Again, please be as specific as possible.

### RESPONSE CATEGORY 4: Has a business affiliation or business connection...

- Other

RESPONDENT
NUMBER

NUMBER		
1049	Q12.1 Q12.2	Amazon. Because yes.
1059	Q12.1 Q12.2	Amazon. Don't know.
1097	Q12.1 Q12.2	Supreme. It is.
1108	Q12.1 Q12.2	Shoe stores. Don't know.
1128	Q12.1 Q12.2	Eastbay, Foot Locker. Sports brands are sold through those stores and catalogs.
1132	Q12.1 Q12.2	Adidas. Also make business promotion.
1146	Q12.1 Q12.2	Dicks Sporting Goods and not sure what other company's. Because Dick's Sporting Goods is a very well-known company so by placing Nike in these stores the Nike Company makes a profit.
1147	Q12.1 Q12.2	They might be affiliated with other brands that are focused on athletic apparel.  Nike is an athletic company their products might be sold by other athletic stores.
1162	Q12.1 Q12.2	The company that manufacturers the shirt. They hire the workers who made it and deserve credit for it.

- 64 -**TEST CELL** 

## Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 94 of 235 Q12.0 Do you believe that whoever makes or puts out this product...?

- HAS a business affiliation or business connection with any other brand(s) or company(s)
- With what brand(s) or company(s)? Please be as specific as possible. Q12.1
- Q12.2 Why do you say that? Again, please be as specific as possible.

## RESPONSE CATEGORY 4: Has a business affiliation or business connection...

- Other continued

### RESPONDENT **NUMBER**

NOMBLE	_	
1164	Q12.1 Q12.2	Under Armour. Same type of product sold by both.
1189	Q12.1 Q12.2	Amazon. Amazon sell Nike.
1195	Q12.1 Q12.2	With trade company. To support this product.

- 65 -**TEST CELL** 

## Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 95 of 235 Q12.0 Do you believe that whoever makes or puts out this product...?

- HAS a business affiliation or business connection with any other brand(s) or company(s)
- With what brand(s) or company(s)? Please be as specific as possible. Q12.1
- Q12.2 Why do you say that? Again, please be as specific as possible.

### RESPONSE CATEGORY 5: Has a business affiliation or business connection...

- Don't know / None

RESPONDENT NUMBER
1001
1014
1018
1020
1026
1029
1068
1076
1085
1100
1105
1113
1115
1116
1121
1152
1154
1155
1163
1166
1175
1178
1183
1185

- 66 -**TEST CELL** 

### TABLE 5

## TEST CELL

## GENDER DISTRIBUTION OF RESPONDENTS

	Response	Distribution
Response Categories	<u>Number</u>	<u>Percent</u> (n=200)
1. Male	110	55.00
2. Female	90	45.00
Total	200	100.00

TABLE 6
TEST CELL

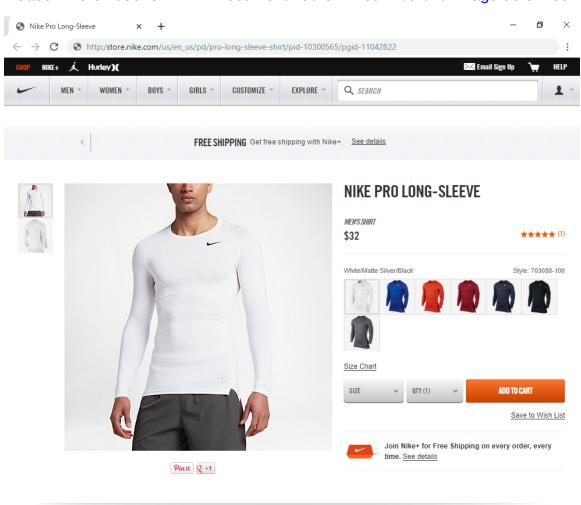
## GENDER AND AGE DISTRIBUTION OF RESPONDENTS

	Response	Distribution
Response Categories	<u>Number</u>	Percent
1. Male		(n=110)
- 18 to 34	46	41.82
- 35 to 54	52	47.27
- 55 or over	<u>12</u>	<u>10.91</u>
Male Total	110	100.00
2. Female		(n=90)
- 18 to 34	32	35.56
- 35 to 54	44	48.89
- 55 or over	<u>14</u>	<u>15.56</u>
Female Total	90	100.00
Grand Total	200	

## CONTROL CELL

## EXHIBITS, SCREENER AND QUESTIONNAIRE

## 





## **VENTILATED STRETCH COMFORT**

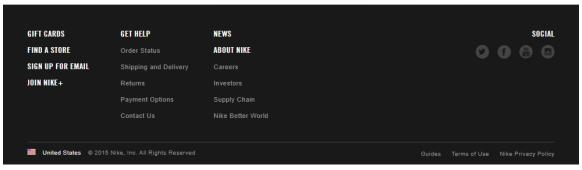
The Nike Pro Long-Sleeve Men's Shirt provides a comfortable, locked-in fit at practice and on game day with stretch Dri-FIT fabric and mesh panels.

#### **BENEFITS**

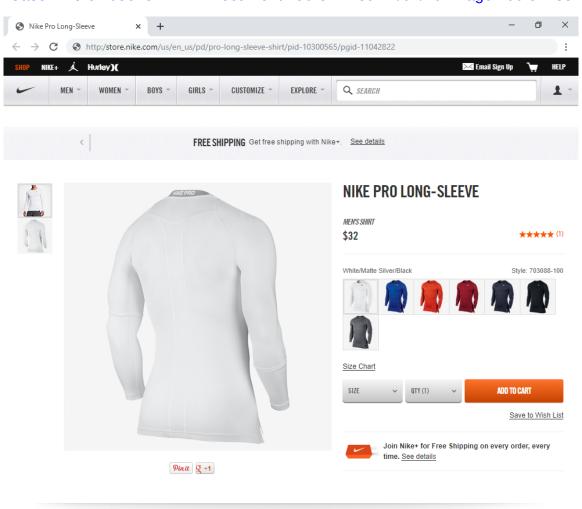
- Dri-FIT fabric helps keep you dry and comfortable
- Ergonomic seams provide a natural feel
- Mesh back panels offer zoned ventilation
- Flat seams move smoothly against the skin

#### PRODUCT DETAILS

- Vented hem
- Fabric: Dri-FIT 92% polyester/8% spandex
- Machine wash
- Imported



## 





## **VENTILATED STRETCH COMFORT**

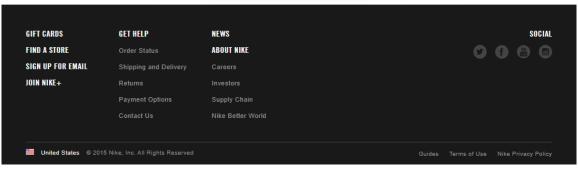
The Nike Pro Long-Sleeve Men's Shirt provides a comfortable, locked-in fit at practice and on game day with stretch Dri-FIT fabric and mesh panels.

#### **BENEFITS**

- Dri-FIT fabric helps keep you dry and comfortable
- Ergonomic seams provide a natural feel
- Mesh back panels offer zoned ventilation
- Flat seams move smoothly against the skin

#### PRODUCT DETAILS

- Vented hem
- Fabric: Dri-FIT 92% polyester/8% spandex
- Machine wash
- Imported



FB&A 12/19 #2102

## SCREENER - X

CC	D			NI	#1
30	, гс	c	ᆮ	IV	# 1

Please take a few moments to complete our questionnaire.	We value your
opinions.	

SCRE	EN #2			
1.0	In the next year, are you likely to purchase any PROGRAMMER NOTE: RANDOMIZE LIST.	of the foll	owing onl	ine?
	TROOM IN NOTE: IN INDOMESE STOTE	<u>Yes</u>	<u>No</u>	Don't <u>know</u>
	apparel	1.	2.	3.
	kitchen appliances	1.	2.	3.
	office supplies	1.	2.	3.
	PROGRAMMER NOTE: IF YES TO APPAREL, TERMINATE.	CONTIN	UE; OTH	IERWISE,
SCRE	EN #3			
1.1	In the next year, are you likely to purchase any <b>PROGRAMMER NOTE: RANDOMIZE LIST.</b>	of the foll	owing onl	ine?
		<u>Yes</u>	<u>No</u>	Don't <u>know</u>
	athletic performance apparel	1.	2.	3.
	business apparel	1.	2.	3.
	formal apparel	1.	2.	3.
SCRE	PROGRAMMER NOTE: IF YES TO PERFORM CONTINUE; OTHERWISE, TERMINATE.  EN #4	ANCE AP	P <b>AREL</b> ,	
2.0	Select your gender.			
	1. Male			
	2. Female			

PROGRAMMER NOTE: GENDER QUOTA MALES 55%, FEMALES 45%

2.1 For verification purposes, please enter your date of birth.

/	/_	
MM	DD	YYYY

PROGRAMMER NOTE: TERMINATE IF DOES NOT MATCH PANELIST'S PRE-EXISTING DATA. IF DOB IS BLANK, TERMINATE AS REFUSED. CALCULATE AGE RANGES TO DETERMINE OPEN QUOTAS FOR AGE PRIOR TO CONTINUING. CODE AGE RANGE BASED ON DOB]

- 1. Under 18 **TERMINATE**.
- 2. 18 to 34
- 3. 35 to 54
- 4. 55 or over

PROGRAMMER NOTE: AGE/GENDER QUOTAS:

	MALES	FEMALES
18 TO 34	42%	36%
35 TO 54	48%	48%
55 OR OVER	10%	16%

### **SCREEN #6**

3.0 Please select the area of the country in which you reside:

5.	Other TERMINATE.
4.	West (Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming)
3.	South (Alabama, Arkansas, DC, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, West Virginia)
2.	Midwest (Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin)
1.	Northeast (Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont)

PROGRAMMER NOTE: QUOTAS FOR POPULATION IN THE FOUR CENSUS REGIONS:

NORTHEAST	18%
MIDWEST	22%
SOUTH	38%
WEST	22%

## **SCREEN #7** 4.0 What best describes the device you are using right now to take this survey? \_\_\_\_1. A desktop computer \_\_\_\_2. A laptop/notebook computer \_\_\_\_3. A tablet 4. A phone \_\_\_5. Other PROGRAMMER NOTE: OPTION 1, 2, OR 3, CONTINUE. ALL OTHERS, TERMINATE. **SCREEN #8** 5.0 Do you, or does anyone else in your household, work for... <u>Yes</u> No an advertising agency or a market research company?\_\_\_\_\_1. \_\_\_\_1. \_\_\_\_2. a company that makes, sells, or distributes any athletic performance apparel? \_\_\_1. a company that makes, sells, or distributes any business apparel? \_\_\_\_1. a company that makes, sells, or distributes any formal apparel? \_\_\_\_1. \_\_\_\_2. PROGRAMMER NOTE: IF YES TO AD AGENCY OR ATHLETIC PERFORMANCE APPAREL, TERMINATE. ALL OTHERS, CONTINUE.

#### SCREEN #9

6.0	Do you agree to answer the questions in this survey by yourself without the help or assistance of anyone else?
	1. Yes → CONTINUE.
	2. No <b>→ TERMINATE.</b>

## SCREEN #10 6.1 Do you agree to answer the questions in this survey without seeking information from any other source (for example, will not conduct an internet search)? Yes → CONTINUE. \_\_\_\_2. No **→ TERMINATE.** SCREEN #11 7.0 Do you usually wear contact lenses or eyeglasses when you use the device you are using right now? \_\_\_1. Yes **→ CONTINUE**. \_\_\_\_2. No → GO TO SCREEN #13. SCREEN #12 Do you agree to wear them during the rest of the questionnaire? 7.1 \_\_\_1. Yes → CONTINUE. \_\_\_\_2. No **→ TERMINATE**. SCREEN #13 8.0 Please select the number (INSERT RANDOM NUMBER ONE THROUGH **FOUR)** from the following list in order to continue with the survey. \_\_\_\_1. One

PROGRAMMER NOTE: IF NUMBER ENTERED MATCHES NUMBER IN QUESTION, CONTINUE. OTHERWISE, TERMINATE.

2. Two

\_\_\_\_3. Three

4. Four

#### QUESTIONNAIRE - X

#### SCREEN #14

In this survey, you are going to be shown a web page and then asked some questions.

Please understand that we are only interested in your opinions or beliefs; and if you don't have an opinion or belief or don't know the answer to a question, that is an acceptable answer.

#### SCREEN #15

Please look at this web page as you would if you were considering purchasing the product shown. Please take as much time as you like looking at the web page before continuing with the survey.

PROGRAMMER NOTE: SHOW IMAGE X1.

#### SCREEN #16

Could	you clearly read the words on the web page?
1.	Yes → CONTINUE.
2.	No → TERMINATE.

PROGRAMMER NOTE: SHOW IMAGE X2. DISPLAY "Click image to open web page" BELOW IMAGE. WHEN IMAGE IS CLICKED, SHOW WEB PAGE X IN A NEW WINDOW.

Who do you believe makes or puts out this product? Please be as specific as possible.
☐ Don't know GO TO> SCREEN #19.
EEN #18
GRAMMER NOTE: SHOW IMAGE X2. DISPLAY "Click image to open page" BELOW IMAGE. WHEN IMAGE IS CLICKED, SHOW WEB PAGE X NEW WINDOW.
Why do you say that? Again, please be as specific as possible.
□ Don't know

PROGRAMMER NOTE: SHOW IMAGE X2. DISPLAY "Click image to open web page" BELOW IMAGE. WHEN IMAGE IS CLICKED, SHOW WEB PAGE X IN A NEW WINDOW.

10.0	What other brand or brands, if any, do you believe are made or put out by whoever makes or puts out this product? Please be as specific as possible.				
	☐ Don't know GO TO → SCREEN #21.				
SCRE	EN #20				
web	GRAMMER NOTE: SHOW IMAGE X2. DISPLAY "Click image to open page" BELOW IMAGE. WHEN IMAGE IS CLICKED, SHOW WEB PAGE X NEW WINDOW.				
10.1	Why do you say that? Again, please be as specific as possible.				
	☐ Don't know				

PROGRAMMER NOTE: SHOW	IMAGE >	(2. D	<b>ISPLAY</b>	"Click	image	to op	en	
web page" BELOW IMAGE.	WHEN I	MAGE	IS CLIC	CKED,	SHOW	WEB	PAGE	X
IN A NEW WINDOW.								

13.0	PROGI	believe this product? RAMMER NOTE: ROTATE FIRST TWO ALTERNATIVES. ALSO, ROTATE AND Q12.0 SERIES.					
	1.	IS being made or put out with the authorization or approval of any other brand(s) or company(s)					
	2.	is NOT being made or put out with the authorization or approval of any other brand(s) or company(s)					
	3.	don't know or have no opinion  PROGRAMMER NOTE: IF 'IS,' CONTINUE;  OTHERWISE, GO TO → SCREEN #24.					
SCRE	EN #22	2					
web	page" E	ER NOTE: SHOW IMAGE X2. DISPLAY "Click image to open BELOW IMAGE. WHEN IMAGE IS CLICKED, SHOW WEB PAGE X /INDOW.					
11.1	1 With what brand(s) or company(s)? Please be as specific as possible.						
	☐ Do	n't know <b>GO TO SCREEN #24</b> .					
SCRE	EN #23	3					
web	page" E	ER NOTE: SHOW IMAGE X2. DISPLAY "Click image to open BELOW IMAGE. WHEN IMAGE IS CLICKED, SHOW WEB PAGE X /INDOW.					
11.2	Why do	you say that? Again, please be as specific as possible.					
		in't know					

- 79 - CONTROL CELL

#### SCREEN #24

PROGRAMMER NOTE: SHOW	<b>IMAGE X2.</b>	DISPLAY	"Click imag	e to open	
web page" BELOW IMAGE.	WHEN IM	AGE IS CLIC	CKED, SHOW	/ WEB PAGE	X
IN A NEW WINDOW.					

14.0	Do you believe that whoever makes or puts out this product?  PROGRAMMER NOTE: ROTATE FIRST TWO ALTERNATIVES. ALSO, ROTATE Q11.0 AND Q12.0 SERIES.
	1. HAS a business affiliation or business connection with any other brand(s) or company(s)
	2. does NOT have a business affiliation or business connection with any other brand(s) or company(s)
ſ	3. don't know or have no opinion  PROGRAMMER NOTE: IF 'HAS A BUSINESS AFFILIATION,' CONTINUE;  OTHERWISE, GO TO → SCREEN #27.
SCRE	EN #25
web	GRAMMER NOTE: SHOW IMAGE X2. DISPLAY "Click image to open page" BELOW IMAGE. WHEN IMAGE IS CLICKED, SHOW WEB PAGE X NEW WINDOW.
12.1	With what brand(s) or company(s)? Please be as specific as possible.
	☐ Don't know <b>GO TO SCREEN #27</b> .
SCRE	EN #26
web	GRAMMER NOTE: SHOW IMAGE X2. DISPLAY "Click image to open page" BELOW IMAGE. WHEN IMAGE IS CLICKED, SHOW WEB PAGE X NEW WINDOW.
12.2	Why do you say that? Again, please be as specific as possible.
	☐ Don't know

#### SCREEN #27

13.0 Thank you for your time and participation.

# TABLE 7 CONTROL CELL

- Q9.0 Who do you believe makes or puts out this product? Please be as specific as possible.
- Q9.1 Why do you say that? Again, please be as specific as possible.

	Dospopos	Distribution
	Number	<u>Distribution</u> Percent
Response Categories	<u>ivamber</u>	(n=200)
1. Lontex / Sweat It Out / Cool		
Compression		
2. Nike and its brands (e.g., Nike Pro,	101	00.50
Hurley, Jordan, etc.	181	90.50
<ol> <li>Nike and its brands (e.g., Nike Pro, Hurley, Jordan, etc.) plus Other</li> </ol>		
4. Other	3	1.50
5. Don't know /None	<u>16</u>	8.00
Total	200	100.00

## RESPONSE CATEGORIES Questions 9.0 through 9.1

#### CONTROL CELL

- 1. Lontex / Sweat It Out / Cool Compression
- 2. Nike and its brands (e.g., Nike Pro, Hurley, Jordan, etc.)
- 3. Nike and its brands (e.g., Nike Pro, Hurley, Jordan, etc.) plus Other
- 4. Other
- 5. Don't know / None

#### SURVEY RESPONSES CONTROL CELL

- Q9.0 Who do you believe makes or puts out this product? Please be as specific as possible.
- Q9.1 Why do you say that? Again, please be as specific as possible.

RESPONSE CATEGORY 1: Lontex / Sweat It Out / Cool Compression

There are no responses in this category.

- Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 113 of 235 Q9.0 Who do you believe makes or puts out this product? Please be as specific as possible.
- Q9.1 Why do you say that? Again, please be as specific as possible.

		continued
RESPONDENT NUMBER	RESPONS	<u>SE</u>
2001	Q9.0 Q9.1	Nike. This clothing brand is called Nike.
2002	Q9.0 Q9.1	Nike. The logo and the description which says Nike Pro Long- Sleeve.
2003	Q9.0 Q9.1	Nike. Has the Nike logo.
2004	Q9.0 Q9.1	Nike. The emblem on the shirts and the Nike name in the description.
2005	Q9.0 Q9.1	Nike. The logo.
2006	Q9.0 Q9.1	Nike. Their symbol is displayed on the garment, and I can also see "Nike Pro Long-Sleeve" in the description.
2007	Q9.0 Q9.1	Nike. I see the Nike Swoosh and it says Nike at the top.
2009	Q9.0 Q9.1	Nike. Not sure.
2010	Q9.0 Q9.1	Nike. Because it has Nike symbol on his shirt.
2011	Q9.0 Q9.1	Nike. Shows on website.
2012	Q9.0 Q9.1	Nike. Because it is in the description and because of the logo.
2013	Q9.0 Q9.1	Nike. Because of the Nike symbols and the word Nike all over the page.
2014	Q9.0 Q9.1	Nike. Cause its brand name is shown there. at the top of products name.

- Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 114 of 235 Q9.0 Who do you believe makes or puts out this product? Please be as specific as possible.
- Q9.1 Why do you say that? Again, please be as specific as possible.

RESPONDENT		continued
NUMBER	RESPONS	<u>E</u>
2015	Q9.0 Q9.1	Nike. The Nike Swoosh is on the front.
2016	Q9.0 Q9.1	Nike. Because it is.
2017	Q9.0 Q9.1	Nike. It is on ad.
2018	Q9.0 Q9.1	Nike. It says Nike and shows a Nike logo.
2019	Q9.0 Q9.1	Nike. The logo.
2020	Q9.0 Q9.1	Nike. There is a logo.
2021	Q9.0 Q9.1	Nike. I'm not sure at this time.
2022	Q9.0 Q9.1	Nike. Nike.
2023	Q9.0 Q9.1	Nike. Nike athletic shirts.
2024	Q9.0 Q9.1	Nike. It's a Nike store, it's a Nike skirt.
2025	Q9.0 Q9.1	Nike. It's clear for men.
2026	Q9.0 Q9.1	Nike. The logo.
2027	Q9.0 Q9.1	Nike. Nike.
2029	Q9.0 Q9.1	Nike. It says that and the logo on the shirt.
2031	Q9.0 Q9.1	Nike. Printed on shirt and description.

- Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 115 of 235 Q9.0 Who do you believe makes or puts out this product? Please be as specific as possible.
- Q9.1 Why do you say that? Again, please be as specific as possible.

DECDONDENT		continued
RESPONDENT		· -
NUMBER	RESPONS	<u>) C</u>
2032	Q9.0	Nike.
2032	Q9.0 Q9.1	
	Q9. I	Says Nike on the shirt.
2033	Q9.0	Nike.
2033	Q9.0 Q9.1	It's a product from Nike.
	Q7. I	it's a product from Nike.
2034	Q9.0	Nike.
2004	Q9.1	Nike.
	Q 7. 1	TVIKC.
2035	Q9.0	Nike.
2000	Q9.1	The logo.
	Q7.1	The logo.
2036	Q9.0	Nike.
2000	Q9.1	Address store.Nike.com.
	27.1	Addi 655 Store. Wilker Serii.
2037	Q9.0	Nike.
	Q9.1	Because it is the brand shown on the page.
	27	because it is the brand shown on the page.
2038	Q9.0	Nike.
	Q9.1	It's shown in the webpage.
2039	Q9.0	Nike.
	Q9.1	Nike.
2040	Q9.0	Nike.
	Q9.1	Nike makes this.
2041	Q9.0	Nike.
	Q9.1	Nike.
2042	Q9.0	Nike.
	Q9.1	Nike makes the product.
2043	Q9.0	Nike.
	Q9.1	It's called Nike Pro Long-Sleeve and its at store. Nike.com.
2044	Q9.0	Nike.
	Q9.1	It states Nike in the web address - in the description of the
		shirt and the Swoosh logo.
2045	Q9.0	Nike.
	Q9.1	Because it says that in the product name.
2046	Q9.0	Nike.
	Q9.1	It clears that Nike is the maker of this product.

- Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 116 of 235 Q9.0 Who do you believe makes or puts out this product? Please be as specific as possible.
- Q9.1 Why do you say that? Again, please be as specific as possible.

		continued
RESPONDENT	DECDONC	· F
<u>NUMBER</u>	RESPONS	<u>DC</u>
2047	Q9.0 Q9.1	Nike. Don't know.
2048	Q9.0 Q9.1	Nike. It is the Nike website.
2049	Q9.0 Q9.1	Nike. The Nike logo is clearly apparent on the top right.
2050	Q9.0 Q9.1	Nike. It says right on the page also on the shirt itself.
2051	Q9.0 Q9.1	Nike. Shows Nike emblem on the page.
2052	Q9.0 Q9.1	Nike makes this product. It lists the shirt product as Nike branded shirt.
2053	Q9.0 Q9.1	Nike. Name included in description of item as well as includes Nike logo.
2054	Q9.0 Q9.1	Nike. This athletic t-shirt has the Nike logo on the chest and the written description for this t-shirt has Nike being the brand it is, in the description.
2055	Q9.0 Q9.1	Nike. Because of the brand logo on the shirt.
2056	Q9.0 Q9.1	Nike. Nike Pro long - sleeve.
2057	Q9.0 Q9.1	Nike. Nike is the logo.
2058	Q9.0 Q9.1	Nike. Because of the check on the shirt and the word in the ad.
2059	Q9.0 Q9.1	Nike. Because it says Nike.
2060	Q9.0 Q9.1	Nike. It seems to be on their website.

- Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 117 of 235 Q9.0 Who do you believe makes or puts out this product? Please be as specific as possible.
- Q9.1 Why do you say that? Again, please be as specific as possible.

RESPONDENT		continued
NUMBER	RESPONS	<u>E</u>
2061	Q9.0 Q9.1	Nike, this brand is still good and low prices. Because Nike is a brand of good service provider.
2062	Q9.0 Q9.1	Nike. It specificity say it.
2063	Q9.0 Q9.1	Nike. It's on the product and in the description.
2064	Q9.0 Q9.1	Nike. Nike logo.
2065	Q9.0 Q9.1	Nike. The logo.
2066	Q9.0 Q9.1	Nike Pro long. Nike Pro long is a well-known company and I really like it.
2067	Q9.0 Q9.1	Nike. Nike.
2068	Q9.0 Q9.1	Nike. Symbol.
2069	Q9.0 Q9.1	Nike. The logo.
2070	Q9.0 Q9.1	Nike. Because it's called Nike Pro Long-Sleeve.
2071	Q9.0 Q9.1	Nike. It is the recognized brand.
2072	Q9.0 Q9.1	Nike. Because it says Nike.
2073	Q9.0 Q9.1	Nike. It states in the browser.
2074	Q9.0 Q9.1	Nike. It names it.
2075	Q9.0 Q9.1	Nike. Nike.

- Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 118 of 235 Q9.0 Who do you believe makes or puts out this product? Please be as specific as possible.
- Q9.1 Why do you say that? Again, please be as specific as possible.

RESPONDENT		continued
NUMBER	RESPONS	<u>SE</u>
2076	Q9.0 Q9.1	Nike. It says Nike.
2077	Q9.0 Q9.1	Nike, a unique brand. It is an unique and great brand.
2078	Q9.0 Q9.1	Nike. I see the Nike symbol.
2079	Q9.0 Q9.1	Nike. Cause it says.
2080	Q9.0 Q9.1	Nike. It says Nike in the description and has the swish logo.
2081	Q9.0 Q9.1	Nike. It is stated in the ad.
2082	Q9.0 Q9.1	Nike. Because it is a reliable and modern brand.
2083	Q9.0 Q9.1	Nike Pro. Nike Pro.
2084	Q9.0 Q9.1	Nike. The mark.
2085	Q9.0 Q9.1	I think that Nike puts out this product. The Nike logo is on the ad.
2086	Q9.0 Q9.1	Nike. Because it says Nike in the description.
2087	Q9.0 Q9.1	Nike. Nike.
2088	Q9.0 Q9.1	Nike. Because there is its famous sign which is the correct sign so I answer this.
2089	Q9.0 Q9.1	Nike. I keep seeing the Nike logo.
2090	Q9.0 Q9.1	Nike. It says that in the description.

- Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 119 of 235 Q9.0 Who do you believe makes or puts out this product? Please be as specific as possible.
- Q9.1 Why do you say that? Again, please be as specific as possible.

RESPONDENT		continued
NUMBER		SE
2091	Q9.0 Q9.1	Nike. Nike.
2092	Q9.0 Q9.1	Nike. The product's title has the word "Nike" in it, and it's listed on a Nike website.
2093	Q9.0 Q9.1	Nike. The brand says Nike Pro.
2094	Q9.0 Q9.1	Nike is makes this products. I mind that Nike is made this.
2095	Q9.0 Q9.1	Nike. That's what it's selling.
2096	Q9.0 Q9.1	Nike. The Nike check mark on the shirt is a clear indicator of the brand.
2097	Q9.0 Q9.1	Nike. Because it seems relevant and clear.
2098	Q9.0 Q9.1	Nike. Very clear description and brand name.
2099	Q9.0 Q9.1	Nike Pro. Nike Pro.
2100	Q9.0 Q9.1	Nike. Because it is clearly labeled.
2101	Q9.0	Nike because it has there logo on the shirt as well as in the description.
	Q9.1	Because there logo is on the shirt as well as in the descriptive ad.
2102	Q9.0 Q9.1	Nike. It says so.
2103	Q9.0 Q9.1	Nike. Have a logo of Nike.
2104	Q9.0 Q9.1	Nike. The logo.

- Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 120 of 235 Q9.0 Who do you believe makes or puts out this product? Please be as specific as possible.
- Q9.1 Why do you say that? Again, please be as specific as possible.

RESPONDENT NUMBER	RESPONS	continued
NOMBLE	ICLSI ONS	<u>'L</u>
2105	Q9.0 Q9.1	Nike. It is Nike.
2107	Q9.0 Q9.1	Nike. It is the name brand, that is shown in this ad.
2108	Q9.0 Q9.1	Nike. Logo is on the shirts.
2109	Q9.0 Q9.1	Nike. Name.
2110	Q9.0 Q9.1	Nike. Logo.
2111	Q9.0 Q9.1	Nike Pro. Because of the brand logo on the shirt.
2112	Q9.0 Q9.1	Nike. It clearly says Nike store in the site address.
2114	Q9.0 Q9.1	Nike. The Swoosh mark.
2115	Q9.0 Q9.1	Nike. Says Nike and has logo.
2116	Q9.0 Q9.1	Nike. It has the words Nike in the descriptions.
2118	Q9.0 Q9.1	Nike. The out wear company is Nike and the website show their product for sell. Nike Pro Long-Sleeve is the product of Nike.
2119	Q9.0 Q9.1	Nike. The website and product are from Nike.
2120	Q9.0 Q9.1	Nike. The brand on the shirt.
2121	Q9.0 Q9.1	Nike. Brand Nike it is clear on products.

- Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 121 of 235 Q9.0 Who do you believe makes or puts out this product? Please be as specific as possible.
- Q9.1 Why do you say that? Again, please be as specific as possible.

RESPONDENT NUMBER	RESPONS	continued <u>E</u>
2122	Q9.0 Q9.1	Nike. There website, there brand.
2123	Q9.0 Q9.1	Nike. Because of their sign on the clothes the right sign.
2124	Q9.0 Q9.1	Nike. Looks athletic.
2125	Q9.0 Q9.1	Nike. The company offering these products is quite clear.
2127	Q9.0 Q9.1	Nike. The brand that is offered on the website is Nike.
2128	Q9.0 Q9.1	Nike. Logo.
2129	Q9.0 Q9.1	Nike. It's clear.
2130	Q9.0 Q9.1	Nike. Because it seems convenient and is the brand presented.
2132	Q9.0 Q9.1	Nike. The logo, the website, and the name is visible.
2133	Q9.0 Q9.1	Nike. The URL.
2134	Q9.0 Q9.1	Nike. Because of the design on the shirt.
2135	Q9.0 Q9.1	Nike. The Nike symbol.
2136	Q9.0 Q9.1	Nike. Because it says "Nike".
2137	Q9.0 Q9.1	Nike Pro is good brand. It has good quality, good color.
2139	Q9.0 Q9.1	Nike Pro Long-Sleeve. Nike Pro Long-Sleeve.

- Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 122 of 235 Q9.0 Who do you believe makes or puts out this product? Please be as specific as possible.
- Q9.1 Why do you say that? Again, please be as specific as possible.

		continued
RESPONDENT NUMBER	RESPONS	<u>SE</u>
2140	Q9.0 Q9.1	Nike. It is very clear, the website is the Nike store, the Nike logo is on the website, and in the product description it clearly says it is Nike.
2141	Q9.0 Q9.1	Nike. The check mark on the shirt.
2142	Q9.0 Q9.1	Nike. Has their logo on the shirt an it says Nike store on the top.
2143	Q9.0 Q9.1	Nike. The Swoosh logo and the Nike in the advertising.
2145	Q9.0 Q9.1	Only Nike. Through quality, distinctive colors, and the company's great logo.
2147	Q9.0 Q9.1	Nike. It it called Nike Pro and it is on the Nike website.
2148	Q9.0 Q9.1	Nike. The logo.
2149	Q9.0 Q9.1	Nike. Nike brand logo.
2151	Q9.0 Q9.1	Nike. It says Nike; along the Swoosh.
2152	Q9.0 Q9.1	I assume Nike make this product. Nike Pro give me the idea.
2154	Q9.0 Q9.1	Nike. Nike name.
2155	Q9.0 Q9.1	Nike. Don't know.
2156	Q9.0 Q9.1	Nike. Nike.
2158	Q9.0 Q9.1	Nike. Nike it's the brand that sell this piece.

- Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 123 of 235 Q9.0 Who do you believe makes or puts out this product? Please be as specific as possible.
- Q9.1 Why do you say that? Again, please be as specific as possible.

RESPONDENT		continued
NUMBER	RESPONS	<u>SE</u>
2159	Q9.0 Q9.1	Nike. It has the Nike logo.
2160	Q9.0 Q9.1	Nike. It very clearly says so in the description.
2161	Q9.0 Q9.1	Nike because it says so. Because it says so.
2162	Q9.0 Q9.1	Nike brand. Good organized.
2163	Q9.0 Q9.1	Nike major brand of priority. Nice design with price.
2164	Q9.0 Q9.1	Nike is a amazing brand. Why is it my favorite.
2165	Q9.0 Q9.1	Nike. I see the nice Swoosh on the tee and also read Nike in the description.
2167	Q9.0 Q9.1	Nike. The logo is there.
2168	Q9.0 Q9.1	Nike. The logo and the website.
2169	Q9.0 Q9.1	Nike. The symbol on the shirt.
2170	Q9.0 Q9.1	Nike. Because it's a Nike logo. The check.
2171	Q9.0 Q9.1	Nike. It's on Nike.com. The Swoosh is on the shirt. It's called Nike Pro Long-Sleeve.
2172	Q9.0 Q9.1	Nike. I can read.
2173	Q9.0 Q9.1	Nike. The website URL.

- Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 124 of 235 Q9.0 Who do you believe makes or puts out this product? Please be as specific as possible.
- Q9.1 Why do you say that? Again, please be as specific as possible.

RESPONDENT		continued
NUMBER	RESPONS	<u>SE</u>
2174	Q9.0 Q9.1	Nike. I see the Nike logo and it says Nike store in web address.
2175	Q9.0 Q9.1	Nike. Because the page is from the Nike store.
2176	Q9.0 Q9.1	Nike. Nike makes the shirt.
2177	Q9.0 Q9.1	Nike. Because it says Nike.
2178	Q9.0 Q9.1	Nike. Because it has the Nike logo.
2179	Q9.0 Q9.1	Nike. Because it says Nike and has their logo.
2180	Q9.0 Q9.1	The design of the product and the price make me want to purchase this product myself.  I think this not only looks good, but will help improve performance when working out.
2181	Q9.0 Q9.1	Nike. As the logo suggest.
2182	Q9.0 Q9.1	Nike. The website is Nike.com and the item is named "Nike Pro Long-Sleeve".
2183	Q9.0 Q9.1	Nike. The shirt is labeled "Nike Pro Long-Sleeve".
2184	Q9.0 Q9.1	Nike. That's what it said.
2186	Q9.0 Q9.1	Nike. Because it says "Nike" in the name.
2187	Q9.0 Q9.1	Nike. The check symbol on the shirt.
2188	Q9.0 Q9.1	Stretch fit from Nike. Don't know.

- Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 125 of 235 Q9.0 Who do you believe makes or puts out this product? Please be as specific as possible.
- Q9.1 Why do you say that? Again, please be as specific as possible.

RESPONDENT NUMBER	RESPONS	SE SE
2189	Q9.0 Q9.1	Nike seller. I saw Nike product.
2190	Q9.0 Q9.1	Nike. It says Nike Pro Long-Sleeve.
2191	Q9.0 Q9.1	Nike. The logo and the description on the page.
2194	Q9.0 Q9.1	Nike. That is what is on the Nike website. the shirts have the Nike symbol.
2195	Q9.0 Q9.1	Nike. The logo.
2196	Q9.0 Q9.1	Nike. I like Nike.
2197	Q9.0 Q9.1	Nike. Don't know.
2199	Q9.0 Q9.1	Nike. Their clothes are good.
2200	Q9.0 Q9.1	Nike. The brand of shirt.

Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 126 of 235 Q9.0 Who do you believe makes or puts out this product? Please be as specific as possible.

Q9.1 Why do you say that? Again, please be as specific as possible.

RESPONSE CATEGORY 3: Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc.) plus Other

There are no responses in this category.

Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 127 of 235 Q9.0 Who do you believe makes or puts out this product? Please be as specific as possible.

Q9.1 Why do you say that? Again, please be as specific as possible.

#### RESPONSE CATEGORY 4: Other

RESPONDENT		
NUMBER	RESPONS	SE .
2030	Q9.0	Sports brand.
	Q9.1	For the content.
2131	Q9.0	The design and body perfectly suit.
	Q9.1	It is perfectly fit to wear.
2157	Q9.0	Some pro shop supporting athletic equipment.
	Q9.1	It's all Nike, Jordan, and Hurley.

- Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 128 of 235 Q9.0 Who do you believe makes or puts out this product? Please be as specific as possible.
- Q9.1 Why do you say that? Again, please be as specific as possible.

### RESPONSE CATEGORY 5: Don't know / None

RESPONDENT
NUMBER
2008
2028
2106
2113
2117
2126
2138
2144
2146
2150
2153
2166
2185
2192
2193
2198

# TABLE 8 CONTROL CELL

- Q10.0 What other brand or brands, if any, do you believe are made or put out by whoever makes or puts out this product? Please be as specific as possible.
- Q10.1 Why do you say that? Again, please be as specific as possible.

		Response I	Distribution	<u>1</u>
Response Categories	<u>Number</u>	Percent (n=200)	Dedur <u>Number</u>	olicated <u>Percent</u> (n=200)
<ol> <li>Lontex / Sweat It Out / Cool Compression</li> </ol>				
<ol><li>Nike and its brands (e.g., Nike Pro, Hurley, Jordan, etc.)</li></ol>	37	18.50		
<ol><li>Nike and its brands (e.g., Nike Pro, Hurley, Jordan, etc.) plus Other</li></ol>	4	2.00		
4. Other	25	12.50		
5. Don't know / None	<u>134</u>	67.00		
Total	200	100.00		

#### RESPONSE CATEGORIES Questions 10.0 through 10.1

#### CONTROL CELL

- 1. Lontex / Sweat It Out / Cool Compression
- 2. Nike and its brands (e.g., Nike Pro, Hurley, Jordan, etc.)
- 3. Nike and its brands (e.g., Nike Pro, Hurley, Jordan, etc.) plus Other
- 4. Other
- 5. Don't know / None

#### SURVEY RESPONSES CONTROL CELL

Q10.0 What other brand or brands, if any, do you believe are made or put out by whoever makes or puts out this product? Please be as specific as possible.Q10.1 Why do you say that? Again, please be as specific as possible.

RESPONSE CATEGORY 1: Lontex / Sweat It Out / Cool Compression

There are no responses in this category.

Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 132 of 235 Q10.0 What other brand or brands, if any, do you believe are made or put out by whoever makes or puts out this product? Please be as specific as possible. Q10.1 Why do you say that? Again, please be as specific as possible.

<u>RESPONSE CATEGORY 2</u>: Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc. continued

RESPONDENT NUMBER	RESPONS	continued
*2006	Q10.0	My only guess would be Hurley because their logo is next to
	Q10.1	Nike's in the upper left corner. Logo in upper left corner.
*2014	Q10.0 Q10.1	Hurley, I think. It's on the next tab of Nike that's why.
*2019	Q10.0 Q10.1	Haley. Hurley.
*2020	Q10.0 Q10.1	Nike+. I think so.
*2022	Q10.0 Q10.1	Nike Pro. It's the company.
*2024	Q10.0 Q10.1	Nike+. It says that in a few places.
*2027	Q10.0 Q10.1	Nike. Nike.
*2033	Q10.0 Q10.1	Hurley. The shopper.
*2034	Q10.0 Q10.1	Nike. Nike.
*2038	Q10.0 Q10.1	Hurley. It's the affiliated brand of Nike.
*2039	Q10.0 Q10.1	Nike Pro Long-Sleeve. It is good likely products.
*2052	Q10.0	From the looks of the page they make Nike and Hurley
	Q10.1	branded clothing on this page. I say that because at the top of the page it says Nike brand and Hurley brand.
*2056	Q10.0 Q10.1	Nike+. Hurley.

Note: Answers coded as a Nike category response in previous question are marked with an asterisk.

Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 133 of 235 Q10.0 What other brand or brands, if any, do you believe are made or put out by whoever makes or puts out this product? Please be as specific as possible. Q10.1 Why do you say that? Again, please be as specific as possible.

RESPONDENT		continued
<u>NUMBER</u>	RESPONS	<u>SE</u>
*2059	Q10.0 Q10.1	Hurley, Jordan. Because at the top left it shows those brands.
*2070	Q10.0 Q10.1	Hurley. It says Nike and Hurley at top of page.
*2083	Q10.0 Q10.1	Nike Pro. Nike Pro.
*2087	Q10.0 Q10.1	Nike. Nike.
*2096	Q10.0 Q10.1	Hurley. The Hurley symbol on the top of the page.
*2099	Q10.0 Q10.1	Nike Pro. Nike Pro.
*2101	Q10.0 Q10.1	None only Nike cause it has their logo and even says it's from Nike.  Because it is on there shirt and in the description.
*2103	Q10.0 Q10.1	Only Nike I hope. The brand is Nike.
*2112	Q10.0 Q10.1	Nike. It's a Nike product.
*2119	Q10.0 Q10.1	Jordan and Hurley. They are listed on the top of the website.
*2120	Q10.0 Q10.1	Hurley. Don't know.
*2125	Q10.0 Q10.1	Nike. The company offering these products is quite clear.
*2141	Q10.0 Q10.1	It also says Nike on the page. Nike der.
*2145	Q10.0 Q10.1	Nike. Through quality, distinctive colors, and the company's great logo.

Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 134 of 235 Q10.0 What other brand or brands, if any, do you believe are made or put out by whoever makes or puts out this product? Please be as specific as possible. Q10.1 Why do you say that? Again, please be as specific as possible.

DECDONDENT		continued
RESPONDENT NUMBER	RESPONS	<u>SE</u>
*2149	Q10.0 Q10.1	Hurley. Hurley brand appears on the web page.
*2156	Q10.0 Q10.1	Nike just to it. Nike just to it.
*2170	Q10.0 Q10.1	Just Nike. The logo is only made by Nike.
*2175	Q10.0	The clothing brands sold on this page are from the maraca
	Q10.1	Nike and Hurley. The clothing brands sold on this page are from the maraca Nike and Hurley.
*2177	Q10.0 Q10.1	Hurley. Because the name is right next to Nike.
*2184	Q10.0 Q10.1	Hurley and air Jordan. It's on the website.
*2187	Q10.0 Q10.1	Jordan and Hurley x. The symbol on the sites.
*2191	Q10.0 Q10.1	Air Jordan. The logo can be seen on the page.
*2199	Q10.0 Q10.1	Hurley. Hurley is in a partnership with Nike.
*2200	Q10.0 Q10.1	Hurley. Says it on top.

Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 135 of 235 Q10.0 What other brand or brands, if any, do you believe are made or put out by whoever makes or puts out this product? Please be as specific as possible. Q10.1 Why do you say that? Again, please be as specific as possible.

RESPONSE CATEGORY 3: Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc. plus Other

		plus Other	
RESPONDENT			
NUMBER	<u>RESPONSE</u>		
2025	Q10.0	Nike and adidas.	
	Q10.1	They have good experience for that.	
2037	Q10.0	Under Armour, Michael Jordan.	
	Q10.1	Because in the upper tab it shows.	
2180	Q10.0	Nike, obviously. though this could also work with Under Armour.	
	Q10.1	I say as such because of the name and branding.	
2181	Q10.0 Q10.1	Adidas. Nike. logo.	

#### RESPONSE CATEGORY 4: Other

RESPONDENT NUMBER	RESPONS	<u>SE</u>
2035	Q10.0 Q10.1	Everlife. Make similar clothing.
2036	Q10.0 Q10.1	Under Armour. It was under the address line. Hurley and Under Armour sign.
2040	Q10.0 Q10.1	Armorall. Have purchased in the past.
2042	Q10.0 Q10.1	Under Armour, champion. I've seen products like this.
2046	Q10.0 Q10.1	Adidas. They also made such kind of products.
2049	Q10.0 Q10.1	Shoes, sportwear. I own Nike shoes and sportswear.
2054	Q10.0 Q10.1	Under Armour. I think Under Armour is part of this advertisement.
2055	Q10.0 Q10.1	Under Armour. Because they have sports apparel.
2061	Q10.0 Q10.1	Adidas because they are similar brand. Because this brand is so good.
2066	Q10.0 Q10.1	Trademark. A trademark or trademark mark.
2077	Q10.0 Q10.1	Old Navy, Puma, Adidas are some great brand. Those are very familiar brands.
2082	Q10.0 Q10.1	Adidas. Because it is also a reliable and beautiful brand.
2088	Q10.0 Q10.1	Reebok, adidas. Because this product is an athletic or sport wear and these companies I mentioned were sport wear as well.
2091	Q10.0 Q10.1	Adidas. Adidas.

#### RESPONSE CATEGORY 4: Other continued

RESPONDENT NUMBER		<u>SE</u>
2107	Q10.0 Q10.1	Amazon. It reminds me of the amazon website.
2122	Q10.0 Q10.1	Under Armour. I own some of the products.
2131	Q10.0 Q10.1	This is perfectly fit to our body and good cloth. This good cloth and perfectly fit to our body and it is machine wash. and light weight to our body.
2137	Q10.0 Q10.1	Puma. Athletic brands.
2158	Q10.0 Q10.1	Adidas. Looks like adidas as-well.
2163	Q10.0 Q10.1	Adidas is another brand. It's similar brand.
2164	Q10.0 Q10.1	Adidas. Because it is also my favorite brands.
2165	Q10.0	Under Armour creates products that are similar, but in my honest opinion, much better than Nike in every way.
	Q10.1	I prefer Under Armour. Nike may have nice apparel, but I think UA's quality is better.
2179	Q10.0 Q10.1	Under Armour. Because I have seen it.
2189	Q10.0 Q10.1	Other sports wear, outdoor or any sports wear product. Don't know.
2196	Q10.0 Q10.1	Adidas. I know somewhat about this brand.

#### RESPONSE CATEGORY 5: Don't know / None

RESPONDENT NUMBER	RESPONDENT NUMBER	RESPONDENT NUMBER
2001	2075	2140
2002	2076	2142
2002	2078	2143
2004	2079	2144
2005	2080	2146
2007	2081	2147
2007	2084	2148
2009	2085	2150
2010	2086	2151
2010	2089	2151
2011	2090	2153
2012	2092	2154
2015	2092	2155
2016	2094	2157
2017	2094	2157
2017	2097	2160
2018	2097	2161
2023	2100	2162
2023	2100	2166
2028	2102	2167
2028	2104	2168
2030	2105	2169
2030	2108	2171
2031	2108	2172
2032	2110	2172
2041	2110	2173 2174
2043	2111	2174
2044	2113	2178
2045	2114	21/8
	2115	2183
2048 2050	2117	2185
2051	2118 2121	2186
2053	2123	2188 2190
2057		
2058	2124	2192
2060	2126	2193
2062	2127	2194
2063	2128	2195
2064 2065	2129	2197
	2130	2198
2067	2132	
2068	2133	
2069	2134	
2071	2135	
2072	2136	
2073	2138	
2074	2139	_

### TABLE 9 CONTROL CELL

- Q11.0 Do you believe this product...?
  - IS being made or put out with the authorization or approval of any other brand(s) or company(s)
  - is <u>NOT</u> being made or put out with the authorization or approval of any other brand(s) or company(s)

    don't know or have no opinion
- Q11.1 What brand(s) or company(s)? Please be as specific as possible.
- Q11.2 Why do you say that? Again, please be as specific as possible.

		Response Distribution		
		Dedupli		
Response Categories	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
		(n=200)		(n=200)
<ul> <li>Is being made or put out with authorization or approval</li> </ul>				
<ol> <li>Lontex / Sweat It Out / Cool Compression</li> </ol>				
2. Nike and its brands (e.g., Ni Pro, Hurley, Jordan, etc.)	ke 69	34.50	3	1.50
<ol> <li>Nike and its brands (e.g., Ni Pro, Hurley, Jordan, etc.) plu Other</li> </ol>		2.00		
	·			
4. Other	5	2.50		
5. Don't know / None	<u>40</u>	20.00		
Subtotal	118	59.00		
<ul> <li>Is not being made or put out with authorization or approval</li> </ul>	h 44	22.00		
Don't know/no opinion	38	19.00		
Total	200	100.00		

#### RESPONSE CATEGORIES Questions 11.0 through 11.2

#### CONTROL CELL

- Is being made or put out with authorization or approval of any other brand(s) or company(s)
  - 1. Lontex / Sweat It Out / Cool Compression
  - 2. Nike and its brands (e.g., Nike Pro, Hurley, Jordan, etc.)
  - 3. Nike and its brands (e.g., Nike Pro, Hurley, Jordan, etc.) plus Other
  - 4. Other
  - 5. Don't know / None

#### SURVEY RESPONSES CONTROL CELL

- Q11.0 Do you believe this product...?
  - <u>IS</u> being made or put out with the authorization or approval of any other brand(s) or company(s)
- Q11.1 With what brand(s) or company(s)? Please be as specific as possible.

RESPONSE CATEGORY 1: Is being made or put out with authorization or approval...
- Lontex / Sweat It Out / Cool Compression

There are no responses in this category.

## Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 142 of 235 Q11.0 Do you believe this product...?

- <u>IS</u> being made or put out with the authorization or approval of any other brand(s) or company(s)
- Q11.1 With what brand(s) or company(s)? Please be as specific as possible.
- Q11.2 Why do you say that? Again, please be as specific as possible.

RESPONSE CATEGORY 2: Is being made or put out with authorization or approval...

- Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc.)

RESPONDENT		Trike and its braines (e.g. Trike 110, Trailey, Sordan, e.
NUMBER	RESPONS	<u>SE</u>
*2006	Q11.1 Q11.2	Nike and Hurley. Their names are displayed on the website.
*2014	Q11.1 Q11.2	Hurley. It's the affiliated brand of Nike.
*2015	Q11.1 Q11.2	Nike. It says Nike.
*2017	Q11.1 Q11.2	Nike. On ad.
*2018	Q11.1 Q11.2	Nike. It says Nike.
*2020	Q11.1 Q11.2	Nike Pro. Don't know.
*2021	Q11.1 Q11.2	Nike. I'm not sure at this time.
*2022	Q11.1 Q11.2	Nike. Because it shown here.
*2024	Q11.1 Q11.2	Nike. That's what it says.
*2027	Q11.1 Q11.2	Nike. Nike.
*2035	Q11.1 Q11.2	Nike. Logo.
*2037	Q11.1 Q11.2	Nike. Because each brand must authorize its publication.
*2038	Q11.1 Q11.2	Hurley. It's the affiliated brand of Nike.

Note: Answers coded as a Nike category response in previous question(s) are marked with an asterisk

## Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 143 of 235 Q11.0 Do you believe this product...?

- <u>IS</u> being made or put out with the authorization or approval of any other brand(s) or company(s)
- Q11.1 With what brand(s) or company(s)? Please be as specific as possible.
- Q11.2 Why do you say that? Again, please be as specific as possible.

RESPONSE CATEGORY 2: Is being made or put out with authorization or approval...
- Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc.)

RESPONDENT		continued
NUMBER		<u>SE</u>
*2039	Q11.1 Q11.2	Nike. It is knowing brand.
*2043	Q11.1 Q11.2	Hurley. Logo/name at top.
*2048	Q11.1 Q11.2	It is for Nike. It says it on the site.
*2050	Q11.1 Q11.2	Nike. They do clothes plus shoes.
*2052	Q11.1 Q11.2	Nike and Hurley brands. It lists it at the top of the page. Nike website and lists the brands of Hurley and Nike at the top.
*2054	Q11.1 Q11.2	Nike. I say the brand is Nike with the Nike logo being on the chest and the brand name Nike Pro in the description of this product.
*2061	Q11.1 Q11.2	Nike. Because they are similar.
*2070	Q11.1 Q11.2	Hurley. Both Nike and Hurley are listed at top of page.
*2073	Q11.1 Q11.2	Just Nike. I do not see any other brands listed on the page.
*2076	Q11.1 Q11.2	Nike. It says Nike.
*2079	Q11.1 Q11.2	Nike. Says Nike.
*2080	Q11.1 Q11.2	Nike. Nike in the name of product, Swoosh on shirt and top left of screen.
*2082	Q11.1 Q11.2	Nike. Because its motto is quality and honesty.

## Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 144 of 235 Q11.0 Do you believe this product...?

- <u>IS</u> being made or put out with the authorization or approval of any other brand(s) or company(s)
- Q11.1 With what brand(s) or company(s)? Please be as specific as possible.
- Q11.2 Why do you say that? Again, please be as specific as possible.

RESPONSE CATEGORY 2: Is being made or put out with authorization or approval...

- Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc.)

RESPONDENT		continued
NUMBER	RESPONS	<u>SE</u>
*2083	Q11.1 Q11.2	Nike Pro. Nike Pro.
*2086	Q11.1 Q11.2	Nike. Because it says Nike.
*2087	Q11.1 Q11.2	Nike. Nike.
*2089	Q11.1 Q11.2	Nike. Don't know.
*2092	Q11.1 Q11.2	Nike. The brand is listed on a Nike website.
*2094	Q11.1 Q11.2	Nike. Nike.
*2099	Q11.1 Q11.2	Nike Pro. Nike Pro.
*2101	Q11.1 Q11.2	Nike. Because the label is on the shirt and the name is even in the description.
*2102	Q11.1 Q11.2	Nike. Na.
*2103	Q11.1 Q11.2	Nike. Is brand Nike.
*2104	Q11.1 Q11.2	Nike Pro. Logo.
*2105	Q11.1 Q11.2	Nike. It is a Nike brand.
*2111	Q11.1 Q11.2	Nike. The brand logo and the URL.
*2114	Q11.1 Q11.2	Nike. Swoosh mark.

### Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 145 of 235 Q11.0 Do you believe this product...?

- <u>IS</u> being made or put out with the authorization or approval of any other brand(s) or company(s)
- Q11.1 With what brand(s) or company(s)? Please be as specific as possible.
- Q11.2 Why do you say that? Again, please be as specific as possible.

RESPONSE CATEGORY 2: Is being made or put out with authorization or approval...
- Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc.)

RESPONDENT		continued
NUMBER		<u>SE</u>
*2119	Q11.1 Q11.2	Nike. It's the website.
*2120	Q11.1 Q11.2	Nike. Don't know.
*2124	Q11.1 Q11.2	Nike. Looks like it.
*2125	Q11.1 Q11.2	Nike. The company offering these products is quite clear.
2131	Q11.1 Q11.2	Nike is trusted brand and highly reputed company. Nike is very reputed and trusted brand and I have many dress from this brand.
*2139	Q11.1 Q11.2	Nike. Nike.
*2141	Q11.1 Q11.2	Nike. The check mark.
*2142	Q11.1 Q11.2	Nike. Has their logo an it says it is their store on the top.
*2147	Q11.1 Q11.2	Nike. It is called Nike Pro and it is on the Nike website.
*2148	Q11.1 Q11.2	Again, Nike. Once again, the logo.
*2149	Q11.1 Q11.2	Made by Hurley under Nike permission. It is an assumption.
*2151	Q11.1 Q11.2	Nike. It says "Nike" pro Long-Sleeve. also, the Swoosh on the shirt.
2157	Q11.1 Q11.2	Nike, Jordan and Hurley. Don't know.
*2158	Q11.1 Q11.2	Nike. Nike it is!.

### Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 146 of 235 Q11.0 Do you believe this product...?

- <u>IS</u> being made or put out with the authorization or approval of any other brand(s) or company(s)
- Q11.1 With what brand(s) or company(s)? Please be as specific as possible.
- Q11.2 Why do you say that? Again, please be as specific as possible.

RESPONSE CATEGORY 2: Is being made or put out with authorization or approval...

- Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc.)

RESPONDENT		continued
NUMBER	RESPONS	<u>SE</u>
*2163	Q11.1 Q11.2	Nike good brand. Brand in common.
*2164	Q11.1 Q11.2	Nike. It has excellent products.
*2168	Q11.1 Q11.2	Nike. Don't know.
*2170	Q11.1 Q11.2	Nike alone. The logo on the shirt.
*2175	Q11.1 Q11.2	With the Nike and Hurley brands. Because the brands that appear on the page are the Nike and Hurley brands.
*2177	Q11.1 Q11.2	Nike and Hurley. T says it at the top.
*2178	Q11.1 Q11.2	Nike. Its says Nike in the description.
*2180	Q11.1 Q11.2	Nike. It is on the website.
*2181	Q11.1 Q11.2	Nike. It is.
*2183	Q11.1 Q11.2	Nike. Nike is promoting their shirt on their site.
*2184	Q11.1 Q11.2	Air Jordan and Hurley. It's there in plain sight.
*2187	Q11.1 Q11.2	Nike. It's the Nike website.
*2189	Q11.1 Q11.2	This page is about sports wear or active wear like Nike, REI. I saw and read it from the page.
2193	Q11.1 Q11.2	Nike. Nike.

### Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 147 of 235 Q11.0 Do you believe this product...?

- <u>IS</u> being made or put out with the authorization or approval of any other brand(s) or company(s)
- Q11.1 With what brand(s) or company(s)? Please be as specific as possible.
- Q11.2 Why do you say that? Again, please be as specific as possible.

RESPONSE CATEGORY 2: Is being made or put out with authorization or approval...

- Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc.)
continued

RESPONDENT NUMBER		I <u>SE</u>
*2196	Q11.1 Q11.2	Nike. I can see the logo.
*2200	Q11.1 O11.2	Nike. It is brand of shirt

### Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 148 of 235 Q11.0 Do you believe this product...?

- <u>IS</u> being made or put out with the authorization or approval of any other brand(s) or company(s)
- Q11.1 With what brand(s) or company(s)? Please be as specific as possible.
- Q11.2 Why do you say that? Again, please be as specific as possible.

RESPONSE CATEGORY 3: Is being made or put out with authorization or approval...

- Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc.)

plus Other

RESPONDENT		pius Other
NUMBER	RESPONS	<u>SE</u>
2030	Q11.1 Q11.2	Nike, adidas, Hurley. For the content.
2077	Q11.1 Q11.2	Old Navy and Nike are familiar brand. Those are great brand.
2176	Q11.1 Q11.2	Nike, Reebok, adidas. Nike, Reebok and adidas is what I think.
2189	Q11.1	This page is about sports wear or active wear like Nike, REI.
	Q11.2	I saw and read it from the page.

### Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 149 of 235 Q11.0 Do you believe this product...?

- <u>IS</u> being made or put out with the authorization or approval of any other brand(s) or company(s)
- Q11.1 With what brand(s) or company(s)? Please be as specific as possible.
- Q11.2 Why do you say that? Again, please be as specific as possible.

### RESPONSE CATEGORY 4: Is being made or put out with authorization or approval... - Other

RESPONDENT NUMBER	RESPONS	<u>SE</u>
2026	Q11.1 Q11.2	It's obvious. It's obvious.
2055	Q11.1 Q11.2	Amazon. Because they are on the website for the brand.
2107	Q11.1 Q11.2	Amazon has Nike's permission. It looks like a Nike product advertised on the amazon website.
2165	Q11.1 Q11.2	Under Armour is the competing company. They are competition for Nike, and in my opinion, they are superior to Nike.
2179	Q11.1 Q11.2	Under Armour. Don't know.

- <u>IS</u> being made or put out with the authorization or approval of any other brand(s) or company(s)
- Q11.1 With what brand(s) or company(s)? Please be as specific as possible.
- Q11.2 Why do you say that? Again, please be as specific as possible.

RESPONSE CATEGORY 5: Is being made or put out with authorization or approval...
- Don't know / None

RESPONDENT <u>NUMBER</u>	RESPONDENT <u>NUMBER</u>
2008	2195
2011	2197
2013	
2028	
2032	
2033	
2034	
2036	
2041	
2046	
2047	
2057	
2062	
2063	
2074	
2075	
2106	
2108	
2109	
2113	
2115	
2117	
2123	
2135	
2143	
2144	
2146	
2150	
2159	
2161	
2162	
2166	
2167	
2174	
2182	
2185	
2190	
2191	

#### TABLE 10

#### CONTROL CELL

- Q12.0 Do you believe that whoever makes or puts out this product...?
  - 1. <u>HAS</u> a business affiliation or business connection with any other brand(s) or company(s)
  - 2. does <u>NOT</u> have a business affiliation or business connection with any other brand(s) or company(s)
  - 3. don't know or have no opinion
- Q12.1 With what brand(s) or company(s)? Please be as specific as possible.
- Q12.2 Why do you say that? Again, please be as specific as possible.

		Response [	Distribution	ı
		•	Dedup	licated
Response Categories	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
		(n=200)		(n=200)
<ul> <li>Has a business affiliation or connection</li> </ul>				
<ol> <li>Lontex / Sweat It Out / Cool Compression</li> </ol>				
<ol><li>Nike and its brands (e.g., Nike Pro, Hurley, Jordan, etc</li></ol>	47	23.50		
<ol><li>Nike and its brands (e.g., Nike Pro, Hurley, Jordan, etc.) plus Other</li></ol>	2	1.00		
4. Other	5	2.50		
5. Don't know / None	<u>29</u>	<u>14.50</u>		
Subtotal	83	41.50		
<ul> <li>Does not have a business affiliation or business connection</li> </ul>	60	30.00		
• Don't know/no opinion	<u>57</u>	28.50		
Total	200	100.00		

#### RESPONSE CATEGORIES Questions 12.0 through 12.2

#### CONTROL CELL

- Has a business affiliation or business connection with any other brand(s) or company(s)
  - 1. Lontex / Sweat It Out / Cool Compression
  - 2. Nike and its brands (e.g., Nike Pro, Hurley, Jordan, etc.)
  - 3. Nike and its brands (e.g., Nike Pro, Hurley, Jordan, etc.) plus Other
  - 4. Other
  - 5. Don't know / None

### SURVEY RESPONSES CONTROL CELL

- Q12.0 Do you believe that whoever makes or puts out this product...?
  - •1. <u>HAS</u> a business affiliation or business connection with any other brand(s) or company(s)?
- Q12.1 With what brand(s) or company(s)? Please be as specific as possible.
- Q12.2 Why do you say that? Again, please be as specific as possible.

RESPONSE CATEGORY 1: Has a business affiliation or business connection...

- Lontex / Sweat It Out / Cool Compression

There are no responses in this category.

## Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 154 of 235 Q12.0 Do you believe that whoever makes or puts out this product...?

- HAS a business affiliation or business connection with any other brand(s) or company(s)
- With what brand(s) or company(s)? Please be as specific as possible. Q12.1
- Q12.2 Why do you say that? Again, please be as specific as possible.

#### RESPONSE CATEGORY 2: Has a business affiliation or business connection...

- Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc.)

RES	$\neg \neg$		\IT
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ハレン	-	$\mathbf{U}$	N I

RESPONDENT			
<u>NUMBER</u>	RESPONSE		
*2006	Q12.1	Okay, ya'll asked me the same question more than four times nowNike and Hurley.	
	Q12.2	Names are displayed.	
*2010	Q12.1 Q12.2	Nike Air, Nike Jordan. They affiliate with other brands. Don't know.	
*2014	Q12.1 Q12.2	Hurley. It's beside It's own brand name that`s why.	
*2015	Q12.1 Q12.2	Nike. The Swoosh.	
*2018	Q12.1 Q12.2	Nike since it says Nike. It says Nike.	
*2020	Q12.1 Q12.2	Nike. Don't know.	
*2021	Q12.1 Q12.2	Nike. Don't know.	
*2024	Q12.1 Q12.2	Hurley. It says Hurley in the bar above.	
*2025	Q12.1 Q12.2	Nike. It's clear.	

### Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 155 of 235 Q12.0 Do you believe that whoever makes or puts out this product...?

- HAS a business affiliation or business connection with any other brand(s) or company(s)
- With what brand(s) or company(s)? Please be as specific as possible. Q12.1
- Why do you say that? Again, please be as specific as possible. Q12.2

#### RESPONSE CATEGORY 2: Has a business affiliation or business connection...

- Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc.) continued

RESPONDENT		continued
NUMBER	RESPONS	<u>SE</u>
*2026	Q12.1 Q12.2	Note. It's obviously Nike.
*2035	Q12.1 Q12.2	Nike. Logo.
*2038	Q12.1 Q12.2	It's the affiliated brand of Nike. It's the affiliated brand of Nike.
*2039	Q12.1 Q12.2	Nike. It is knowing brand.
*2046	Q12.1 Q12.2	Nike. It's clearly written here.
*2048	Q12.1 Q12.2	Nike. Don't know.
*2052	Q12.1 Q12.2	Nike. It's listed right on the page Nike and Hurley.
*2061	Q12.1 Q12.2	Nike. Because they are similar.
*2062	Q12.1 Q12.2	Nike. No imparticular reason.
*2070	Q12.1 Q12.2	Hurley. It says Nike and Hurley at top of page.
*2083	Q12.1 Q12.2	Nike Pro. Nike Pro.
*2087	Q12.1 Q12.2	Nike. Nike.
*2088	Q12.1 Q12.2	With the design company. Companies who are making sports wear are making almost the same models and they do not have to make different clothes as the main difference is the materials.

## Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 156 of 235 Q12.0 Do you believe that whoever makes or puts out this product...?

- HAS a business affiliation or business connection with any other brand(s) or company(s)
- With what brand(s) or company(s)? Please be as specific as possible. Q12.1
- Q12.2 Why do you say that? Again, please be as specific as possible.

#### RESPONSE CATEGORY 2: Has a business affiliation or business connection...

- Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc.) continued

RESPONDENT NUMBER	RESPONS	<u>SE</u>
*2089	Q12.1 Q12.2	Nike. Don't know.
*2094	Q12.1 Q12.2	Nike. Nike.
*2096	Q12.1 Q12.2	Hurley. Hurley logo on the top of the web page.
*2099	Q12.1 Q12.2	Nike Pro. Nike Pro.
*2103	Q12.1 Q12.2	Nike. Is Nike.
*2115	Q12.1 Q12.2	Reebok, Hurley. Shown on website.
*2119	Q12.1 Q12.2	Nike+, Hurley, and Jordan. They are listed at the top of the website.
*2122	Q12.1 Q12.2	Air Jordan. I own shoes made by Nike designed by Jordan.
*2131	Q12.1 Q12.2	Nike. Nike is reputed brand and it is very trusted.
*2132	Q12.1 Q12.2	They have licensing with other companies. I have purchased Nike items at other companies.
*2139	Q12.1 Q12.2	Nike. Nike.
*2149	Q12.1 Q12.2	Nike and Hurley. Both brand names appear on the web page.
*2151	Q12.1 Q12.2	Nike. It says Nike. also, the Swoosh.
*2154	Q12.1 Q12.2	Nike. Don't know.

## Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 157 of 235 Q12.0 Do you believe that whoever makes or puts out this product...?

- HAS a business affiliation or business connection with any other brand(s) or company(s)
- With what brand(s) or company(s)? Please be as specific as possible. Q12.1
- Q12.2 Why do you say that? Again, please be as specific as possible.

RESPONSE CATEGORY 2: Has a business affiliation or business connection...

- Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc.) continued

RESPONDENT		Continued
NUMBER	RESPONS	<u>SE</u>
*2163	Q12.1 Q12.2	Nike good brand. Nike good brand.
*2174	Q12.1 Q12.2	Hurley and Jordan. I see it at the top of the site.
*2177	Q12.1 Q12.2	Nike Plus, Hurley. It says it at the top.
*2181	Q12.1 Q12.2	Nike. It is.
*2184	Q12.1 Q12.2	Air Jordan and Hurley. That's what it has on the website.
*2187	Q12.1 Q12.2	Jordan. The brand logos.
*2189	Q12.1 Q12.2	Nike. Don't know.
*2193	Q12.1 Q12.2	Nike. Nike.
*2195	Q12.1 Q12.2	Hurley. The Hurley logo is on there too.
*2196	Q12.1 Q12.2	Nike. Logo.
*2200	Q12.1 Q12.2	Hurley. It is on top.

## Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 158 of 235 Q12.0 Do you believe that whoever makes or puts out this product...?

- HAS a business affiliation or business connection with any other brand(s) or company(s)
- With what brand(s) or company(s)? Please be as specific as possible. Q12.1
- Q12.2 Why do you say that? Again, please be as specific as possible.

RESPONSE CATEGORY 3: Has a business affiliation or business connection	n
--	---

Nike, Adidas and Puma.

Because it is also my favorite brands.

- Nike and its brands (e.g. Nike Pro, Hurley, Jordan, etc.) plus Other

RESPONDENT NUMBER		ISE
2030	Q12.1 Q12.2	Adidas, Nike, Hurley. For the content.

Q12.1 Q12.2

2164

## Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 159 of 235 Q12.0 Do you believe that whoever makes or puts out this product...?

- HAS a business affiliation or business connection with any other brand(s) or company(s)
- With what brand(s) or company(s)? Please be as specific as possible. Q12.1
- Q12.2 Why do you say that? Again, please be as specific as possible.

#### RESPONSE CATEGORY 4: Has a business affiliation or business connection...

- Other

RESPONDENT		
NUMBER	<b>RESPONS</b>	<u>SE</u>
2027	Q12.1	Ventilated stretch comfort.
	Q12.2	Ventilated stretch comfort.
2036	Q12.1	Under Armour.
2000	Q12.2	Saw the logo.
	Q12.2	out the logo.
2037	012.1	Because each brand must authorize its publication.
2037	Q12.1	Because each brand must authorize its publication.
	Q12.2	because each brand must authorize its publication.
2050	Q12.1	Other retailers and shops.
2030		·
	Q12.2	I've seen their stuff in kohls and other retail shops.
2077	012.1	Duma is an unique brand also
2077	Q12.1	Puma is an unique brand also.
	Q12.2	Puma and Nike has great products.

## Case 2:18-cv-05623-MMB Document 190-3 Filed 11/04/20 Page 160 of 235 Q12.0 Do you believe that whoever makes or puts out this product...?

- HAS a business affiliation or business connection with any other brand(s) or company(s)
- With what brand(s) or company(s)? Please be as specific as possible. Q12.1
- Why do you say that? Again, please be as specific as possible. Q12.2

#### RESPONSE CATEGORY 5: Has a business affiliation or business connection - Don't know / None

#### **RESPONDENT** NUMBER

# TABLE 11 CONTROL CELL

#### GENDER DISTRIBUTION OF RESPONDENTS

Response Categories	Response <u>Number</u>	Distribution Percent (n=200)
1. Male	105	52.50
2. Female	<u>95</u>	47.50
Total	200	100.00

TABLE 12
CONTROL CELL

#### GENDER AND AGE DISTRIBUTION OF RESPONDENTS

	Posnonso	e Distribution
Response Categories	<u>Number</u>	<u>Percent</u>
1. Male		(n=105)
- 18 to 34	41	39.05
- 35 to 54	51	48.57
- 55 or over	<u>13</u>	12.38
Male Total	105	100.00
2. Female		(n=95)
- 18 to 34	32	33.68
- 35 to 54	44	46.32
- 55 or over	<u>19</u>	20.00
Female Total	95	100.00
Grand Total	200	

#### TABLE 13

#### TEST CELL AND CONTROL CELL COMPOSITE RESPONSE ANALYSIS

#### DEDUPLICATED NIKE BRANDS RESPONSES

	Response	Distribution
Response Categories	Test Cell Percent (n=200)	Control Cell Percent (n=200)
1. Lontex / Sweat It Out / Cool Compression		
2. Nike brands	92.50	92.00

#### APPENDIX A

#### SURVEY SPECIFICATIONS

#### SURVEY BACKGROUND

In the instant matter, at the request of DLA Piper, counsel for Defendant, Nike, Inc. ("Nike"), I designed and caused to be conducted a survey to address the issue of likelihood of confusion. Specifically, I was engaged to design a survey to measure the degree, if any, to which Nike's athletic performance apparel (shown on a web page with the words COOL COMPRESSION) is likely to cause confusion as to source, authorization or approval of, or business affiliation or business connection with Plaintiff Lontex Corporation ("Lontex").

#### SAMPLING FRAME

This likelihood of confusion survey, hosted by Issues & Answers Network, Inc. ("Issues & Answers"), employed an online protocol using an internet panel created and maintained by Dynata. Potential respondents were invited to fill out the screening portion of the interview to determine whether or not they met the defined universe for this survey. Subsequently, those potential respondents who met the universe definition were invited to complete the main survey.

In total, four hundred interviews (400) were completed in this likelihood of confusion survey. Two hundred interviews (200) were completed in the test cell and two hundred interviews (200) were completed in the control cell.

#### SURVEY UNIVERSE

The relevant universe for this survey consisted of males and females eighteen (18) years of age or older who were likely, in the next year, to purchase athletic performance apparel.

#### SURVEY METHODOLOGICAL PROCEDURES

The sample selection, questions, questionnaire design, and interviewing procedures employed in this survey were designed in accordance with the generally accepted standards and procedures in the field of surveys. The survey was also designed to meet the criteria for survey trustworthiness detailed in the *Manual for Complex Litigation, Fourth*.

The survey conducted in this matter was administered under a double-blind protocol. Specifically, not only were the respondents not informed as to the purpose or sponsor of the survey, but similarly, both the staff of Issues & Answers and the staff of Dynata were not informed as to the purpose or sponsor of the survey.

#### SURVEY RESEARCH DESIGN/TABULATION/ANALYSIS

Ford Bubala & Associates 16400 Pacific Coast Highway Suite 211 Huntington Beach, California 92649

#### PROFESSIONAL SURVEY ORGANIZATION

Issues & Answers Network, Inc. 5151 Bonney Road Virginia Beach, Virginia 23462

#### SAMPLE PROVIDER / KNOW OMNIBUS PROVIDER

Dynata 53 Riverside Ave Westport, Connecticut 06880

#### DATA COLLECTION DATES

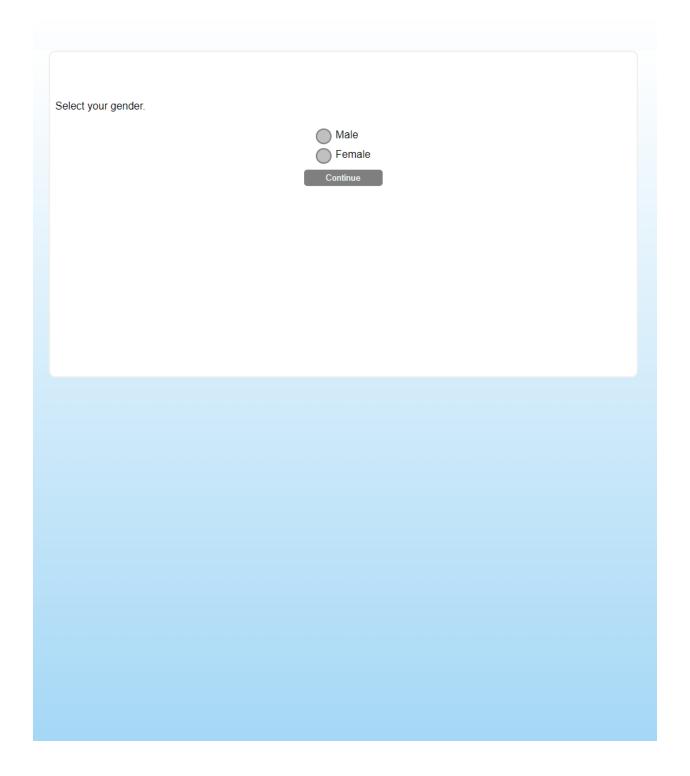
Omnibus: December 6 through December 7, 2019 Survey: December 17 through December 21, 2019

# APPENDIX B TEST CELL - SCREEN SHOTS

Please take a few moments to complete our questionnaire. We value your opinions.

Continue  Continue	ES NO KNOW	Continue	
Continue		Continue	
		Continue	0 0
		Continue	

		YES	NO	DON'T KNOW
formal apparel				0
athletic performance apparel			Ô	Ô
business apparel			0	
	Continue			



	ses, please enter your date	e of birth.	
MONTH (MM) DAY (DD) YEAR (YYYY)		Continue	

Please select the area of the country in which you reside:
Northeast (Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont)
Midwest (Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin)
South (Alabama, Arkansas, DC, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, West Virginia)
West (Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming)
Other Other
Continue

A desktop computer A laptop/notebook computer A phone Other  Continue	What best describes the	device you are u	using right now to take	e this survey?	
			A laptop/note A tablet A phone Other	ebook computer	

company that makes, sells, or distributes any athletic performance apparel?  company that makes, sells, or distributes any business apparel?	an advertising agency or a market research company? a company that makes, sells, or distributes any athletic performance apparel? a company that makes, sells, or distributes any business apparel? a company that makes, sells, or distributes any formal apparel?  Continue	company that makes, sells, or distributes any athletic performance apparel?  company that makes, sells, or distributes any business apparel?  company that makes, sells, or distributes any formal apparel?	company that makes, sells, or distributes any athletic performance apparel?  company that makes, sells, or distributes any business apparel?  company that makes, sells, or distributes any formal apparel?	company that makes, sells, or distributes any athletic performance apparel?  company that makes, sells, or distributes any business apparel?  company that makes, sells, or distributes any formal apparel?
company that makes, sells, or distributes any business apparel?  company that makes, sells, or distributes any formal apparel?	a company that makes, sells, or distributes any business apparel?  a company that makes, sells, or distributes any formal apparel?	company that makes, sells, or distributes any business apparel?  company that makes, sells, or distributes any formal apparel?	company that makes, sells, or distributes any business apparel?  company that makes, sells, or distributes any formal apparel?	company that makes, sells, or distributes any business apparel?  company that makes, sells, or distributes any formal apparel?
company that makes, sells, or distributes any formal apparel?	a company that makes, sells, or distributes any formal apparel?	company that makes, sells, or distributes any formal apparel?	company that makes, sells, or distributes any formal apparel?	company that makes, sells, or distributes any formal apparel?
Continue	Continue	Continue	Continue	Continue

Do you agree to answer the questions in this survey by yourself without the help or assistance of anyone else?  Yes No Continue

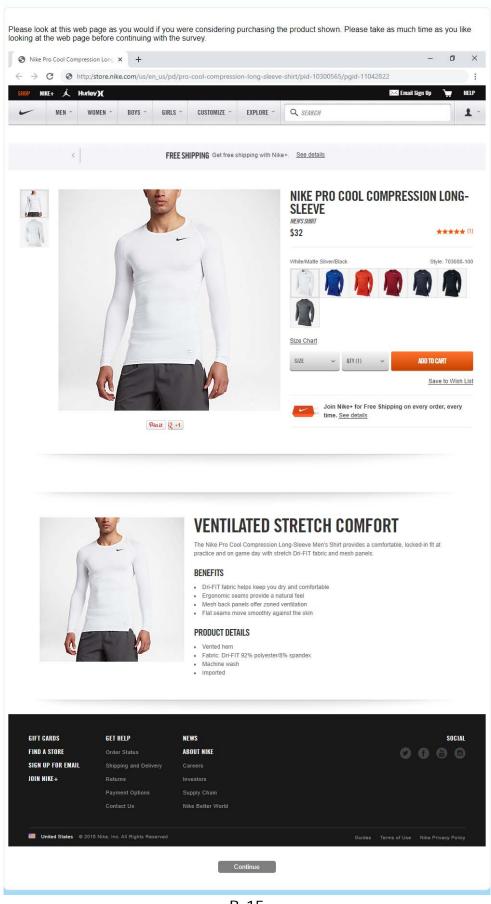
Do you agree to answer the question conduct an internet search)?	s in this survey without seeking information from any other source (for example, will not  Yes  No  Continue

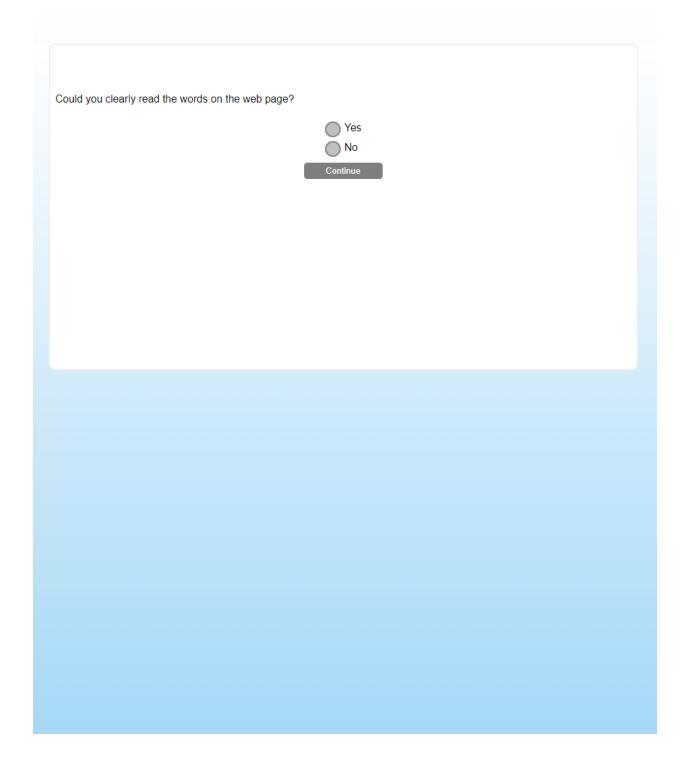
D	o you usually wear contact lenses or eyeglasses when you use the device you are using right now?  Yes  No  Continue

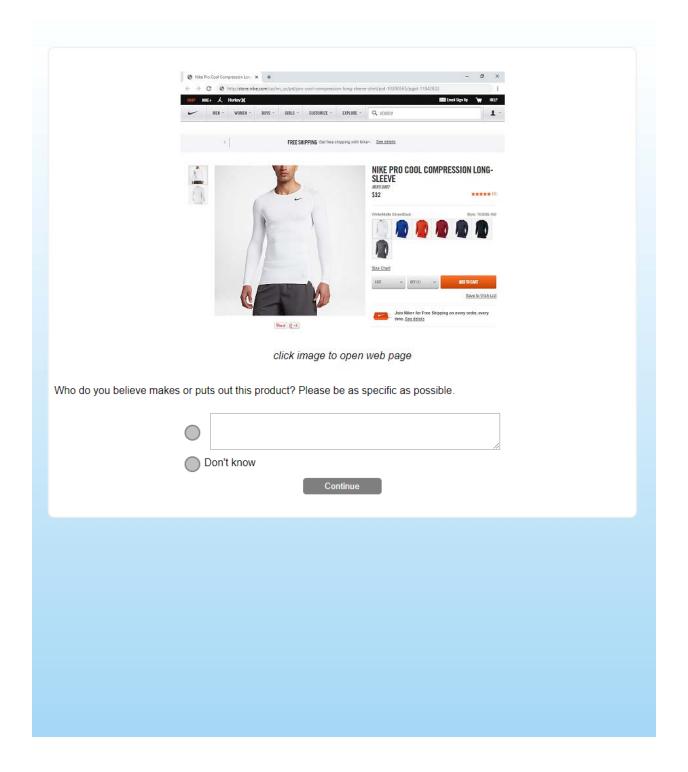
Do you agree to	o wear them during the res	st of the questionnaire? Ye No	es O	

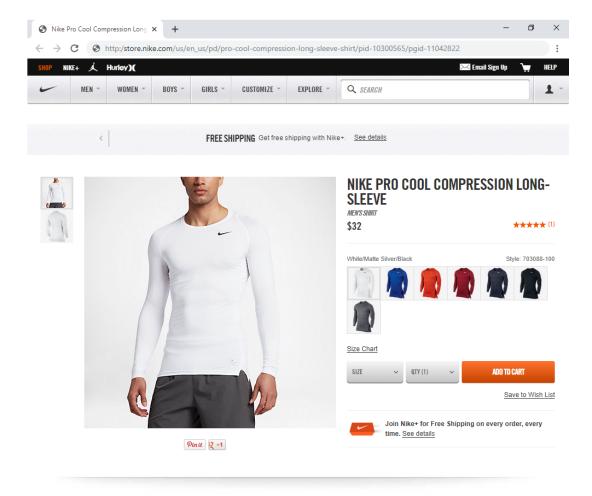
Please select the nun	nber Two from the follo	wing list in order to co	o ee ır	<i>i</i> .	

In this survey, you are going to be shown a web page and then asked some questions.	
Please understand that we are only interested in your opinions or beliefs; and if you don't have an opinion or belief or don't know the answer to a question, that is an acceptable answer.	
know the answer to a question, that is an acceptable answer.	











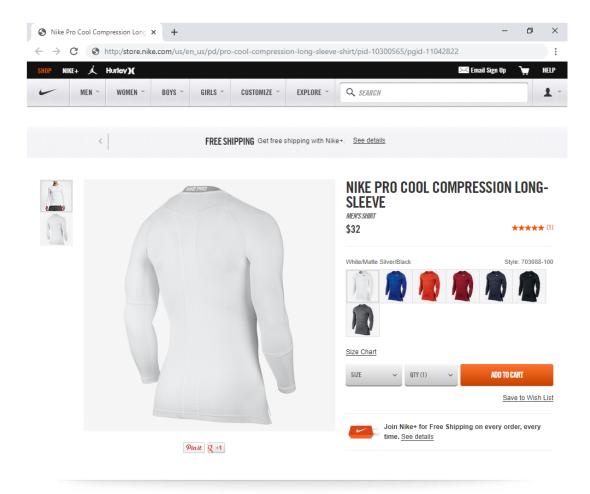
The Nike Pro Cool Compression Long-Sleeve Men's Shirt provides a comfortable, locked-in fit at practice and on game day with stretch Dri-FIT fabric and mesh panels.

## BENEFITS

- . Dri-FIT fabric helps keep you dry and comfortable
- Ergonomic seams provide a natural feel
- Mesh back panels offer zoned ventilation
- · Flat seams move smoothly against the skin

- Vented hem
- Fabric: Dri-FIT 92% polyester/8% spandex
- Machine wash
- Imported





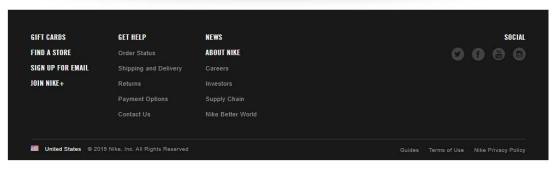


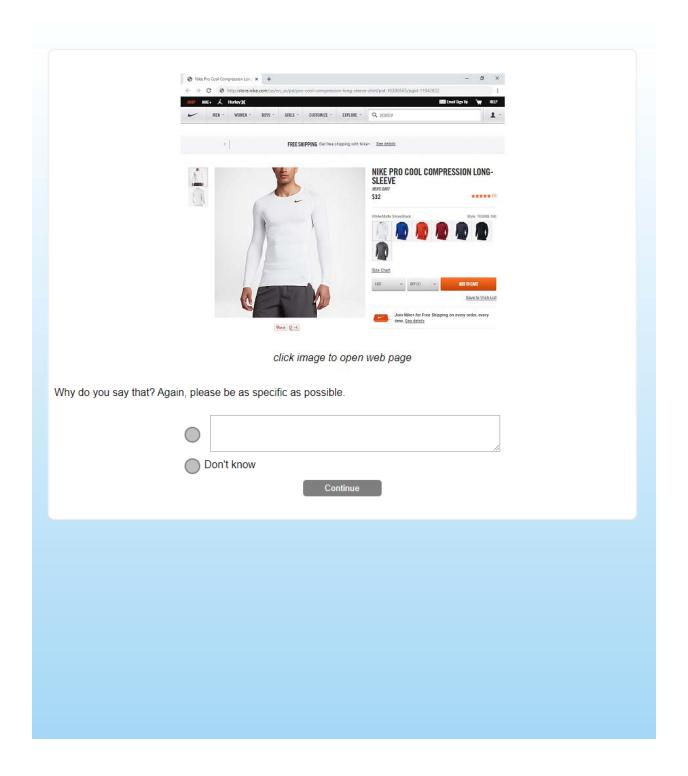
The Nike Pro Cool Compression Long-Sleeve Men's Shirt provides a comfortable, locked-in fit at practice and on game day with stretch Dri-FIT fabric and mesh panels.

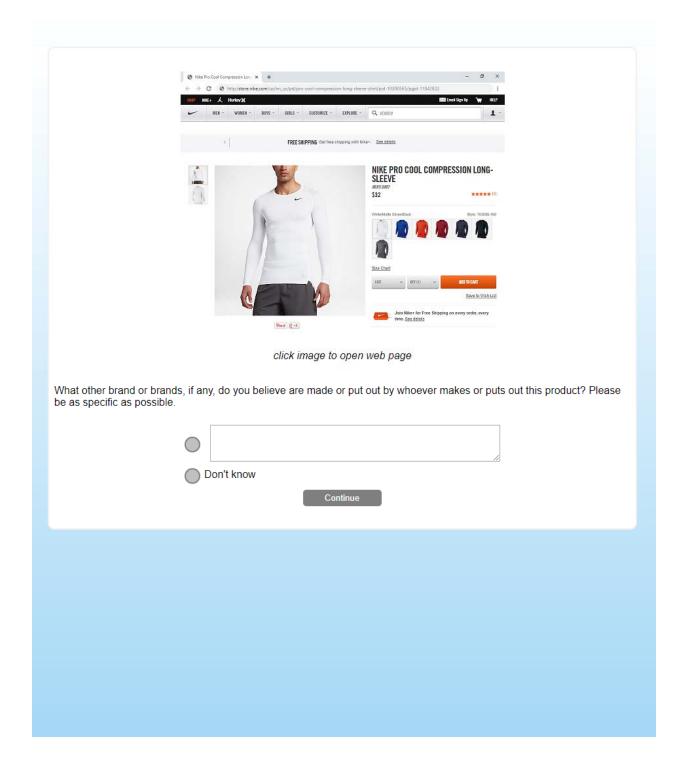
## BENEFITS

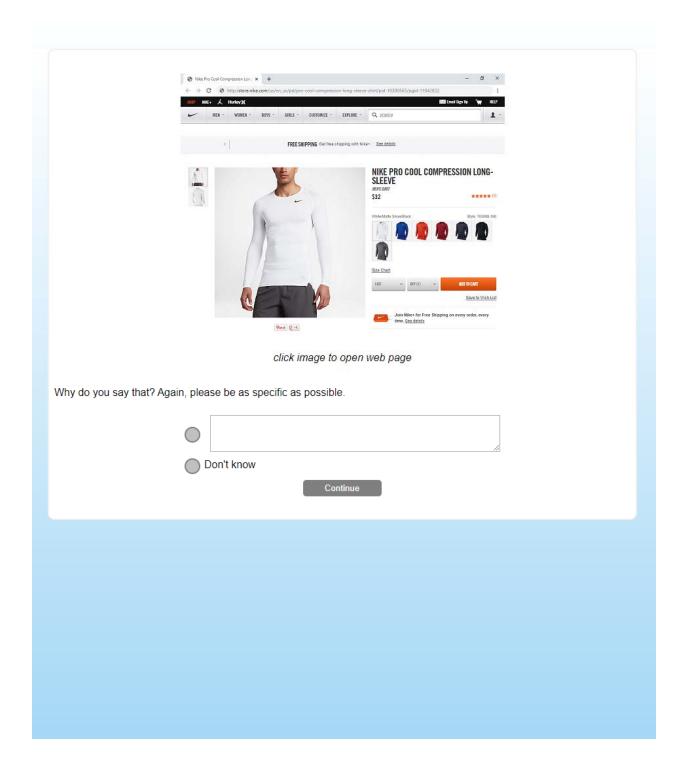
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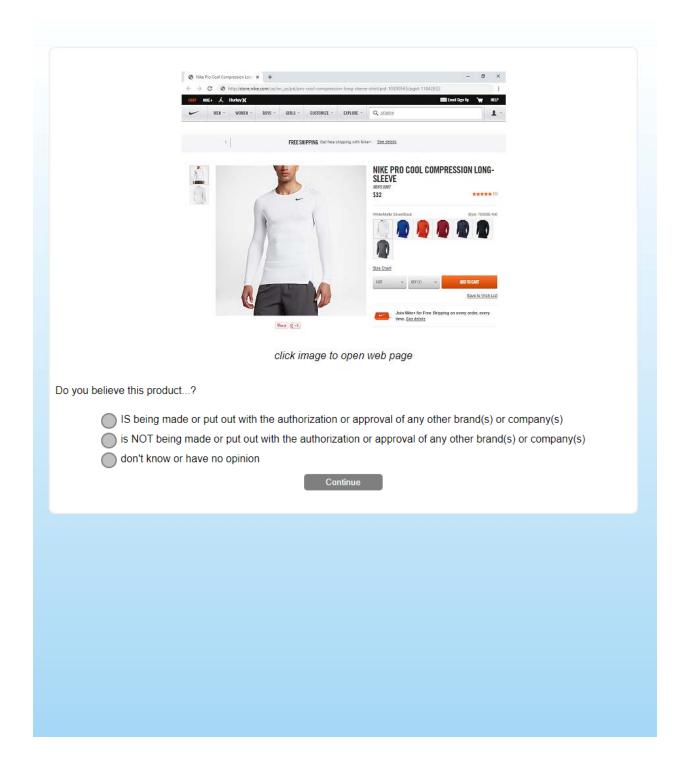
- Vented hem
- Fabric: Dri-FIT 92% polyester/8% spandex
- Machine wash
- Imported

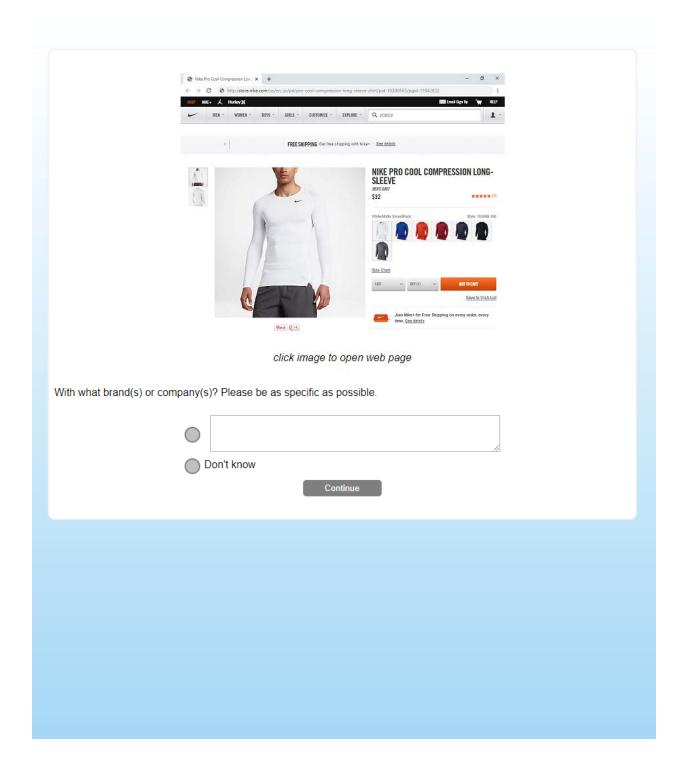


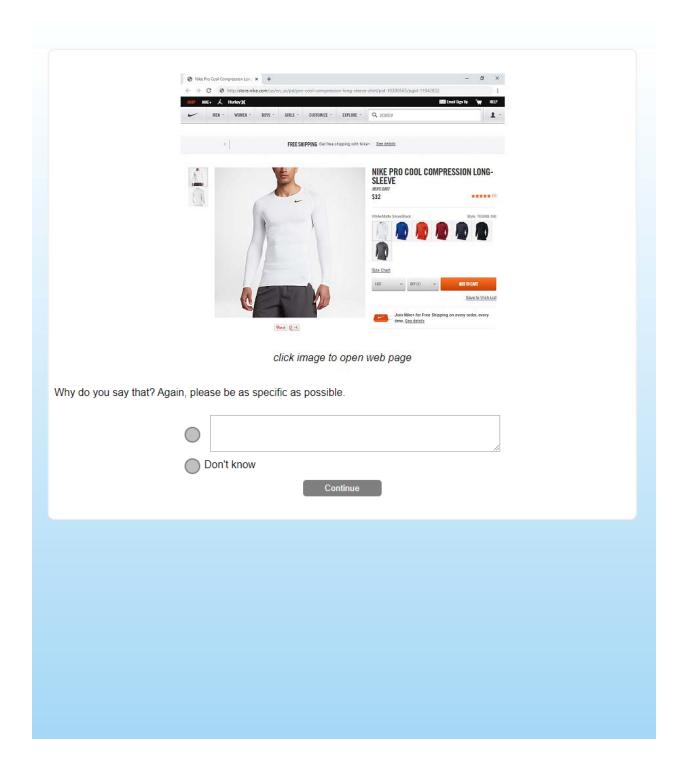


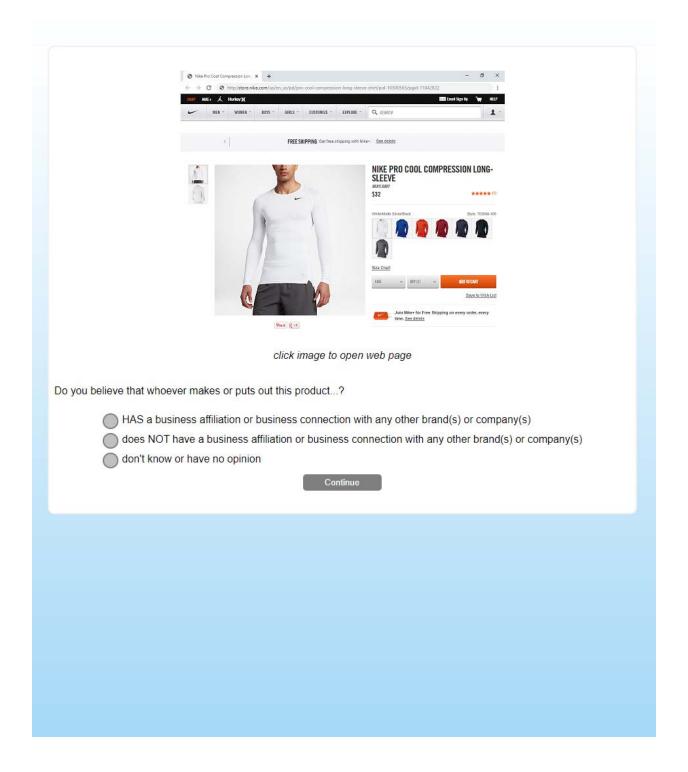


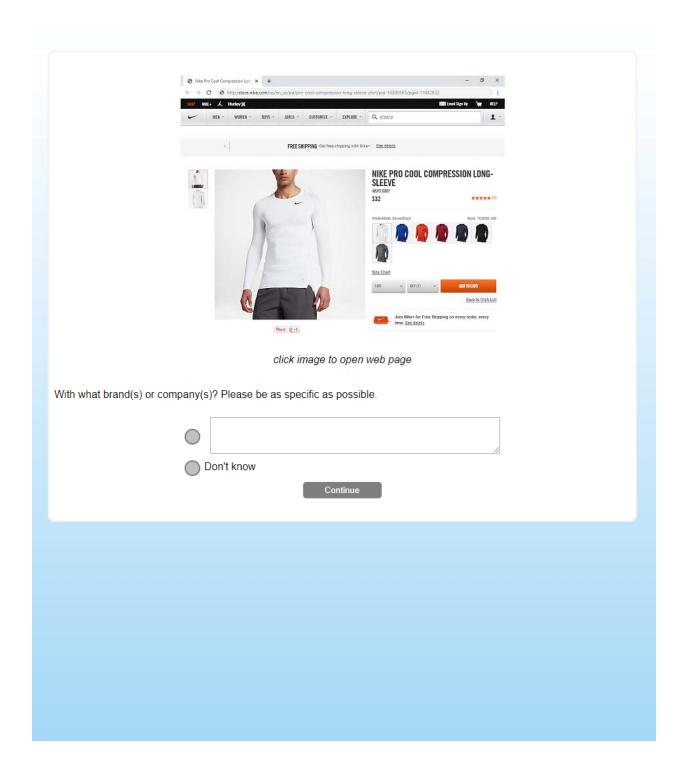


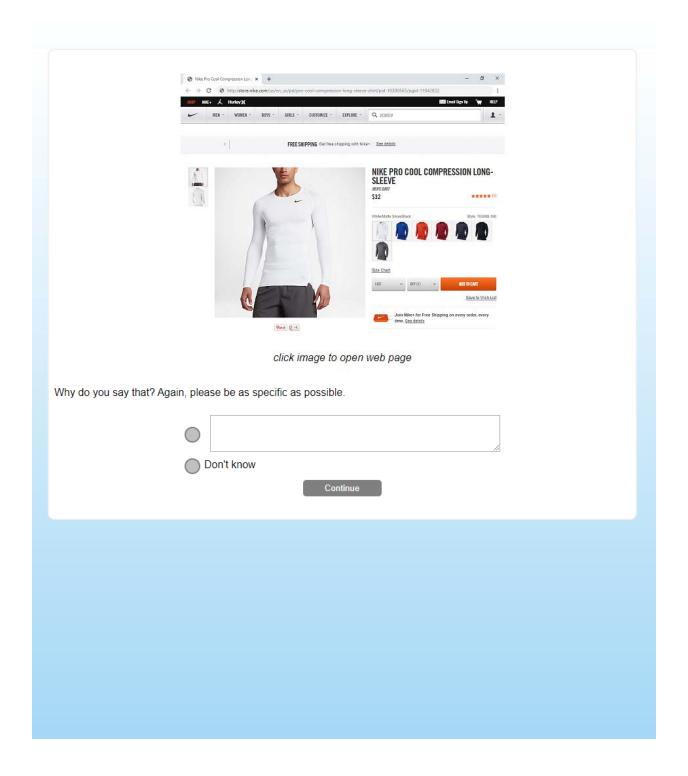


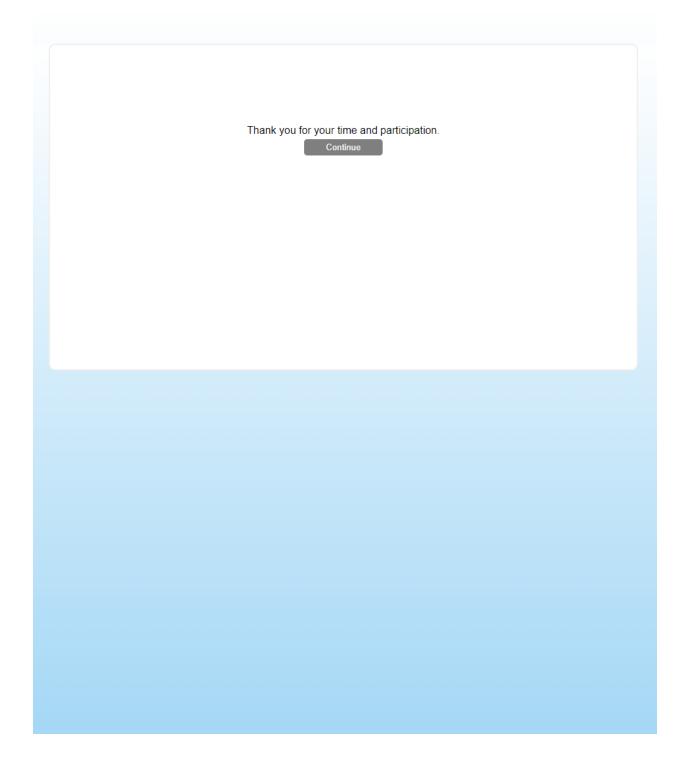










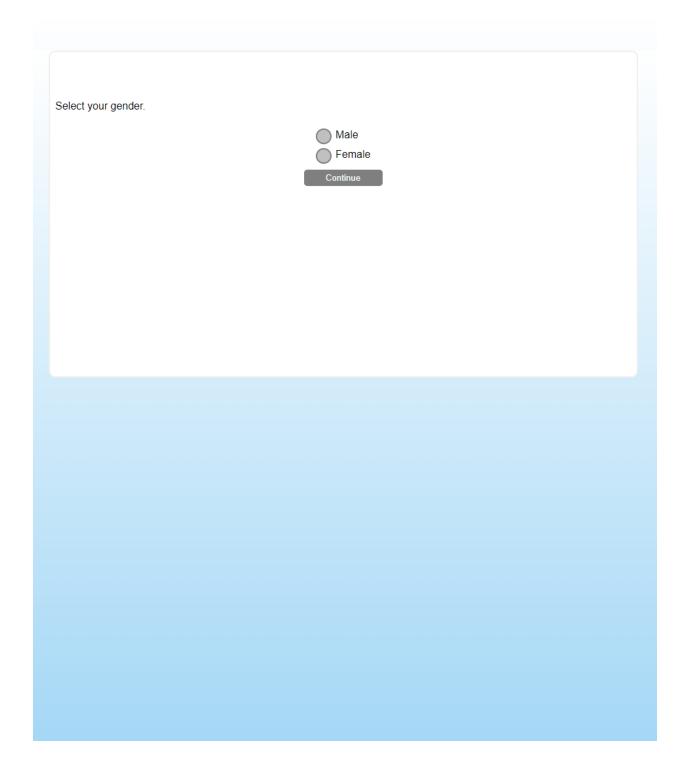


# APPENDIX C CONTROL CELL - SCREEN SHOTS

Please	take a few moments to complet	e value your opinions.	

		YES	NO	DON'T KNOW
kitchen appliances			0	0
apparel		O	Ō	Ō
office supplies		0	0	0
	Continue			
	100000000000000000000000000000000000000			

		YES	NO	DON'T KNOW
business apparel				0
athletic performance apparel			Ŏ.	Q
formal apparel			0	0
	Continue			



or verification purpos	ses, please enter your da	te of birth.		
MONTH (MM) DAY (DD) YEAR (YYYY)		Continue	e	

Please select the area of the country in which you reside:
iedase asiect the dred of the country in which you reside.
Northeast (Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont)
Midwest (Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin)
South (Alabama, Arkansas, DC, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, West Virginia)
West (Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming)
Other
Continue

company that makes, sells, or distributes any athletic performance apparel?  company that makes, sells, or distributes any business apparel?	an advertising agency or a market research company? a company that makes, sells, or distributes any athletic performance apparel? a company that makes, sells, or distributes any business apparel? a company that makes, sells, or distributes any formal apparel?  Continue	company that makes, sells, or distributes any athletic performance apparel?  company that makes, sells, or distributes any business apparel?  company that makes, sells, or distributes any formal apparel?	company that makes, sells, or distributes any athletic performance apparel?  company that makes, sells, or distributes any business apparel?  company that makes, sells, or distributes any formal apparel?	ompany that makes, sells, or distributes any athletic performance apparel?  ompany that makes, sells, or distributes any business apparel?  ompany that makes, sells, or distributes any formal apparel?	0
company that makes, sells, or distributes any business apparel?  company that makes, sells, or distributes any formal apparel?	a company that makes, sells, or distributes any business apparel?  a company that makes, sells, or distributes any formal apparel?	company that makes, sells, or distributes any business apparel?  company that makes, sells, or distributes any formal apparel?	company that makes, sells, or distributes any business apparel?  company that makes, sells, or distributes any formal apparel?	ompany that makes, sells, or distributes any business apparel?  ompany that makes, sells, or distributes any formal apparel?	0
company that makes, sells, or distributes any formal apparel?	a company that makes, sells, or distributes any formal apparel?	company that makes, sells, or distributes any formal apparel?	company that makes, sells, or distributes any formal apparel?	ompany that makes, sells, or distributes any formal apparel?	Q
Continue	Continue	Continue	Continue	Continue	

Do you agree to answer the questions in this survey by yourself without the help or assistance of anyone else   Yes   No   Continue	se?

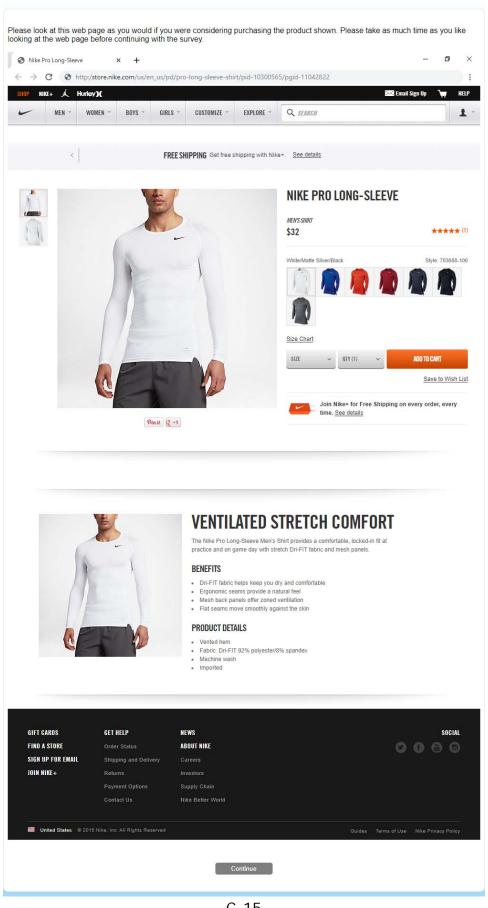
Do you agree to answer the conduct an internet search)	e questions in this survey without seeking information from any other source (for example, will not?  Yes No Continue

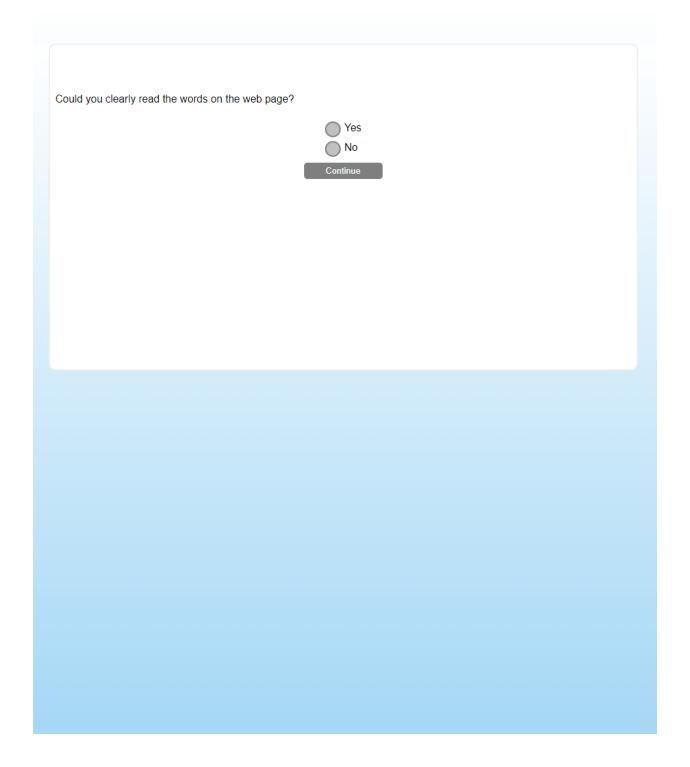
D	o you usually wear contact lenses or eyeglasses when you use the device you are using right now?  Yes  No  Continue

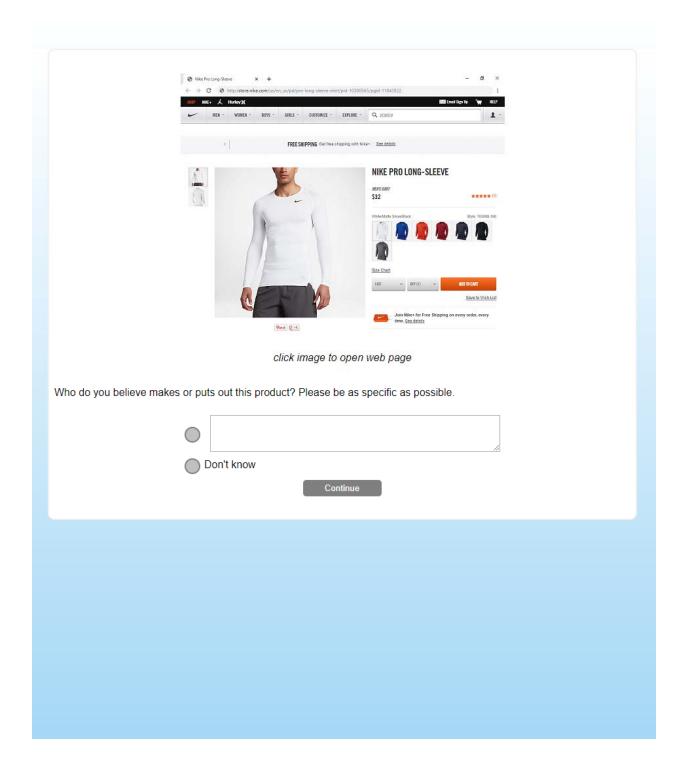
Do yo	you agree to wear them during the rest of the questionnaire?  Yes  No  Continue

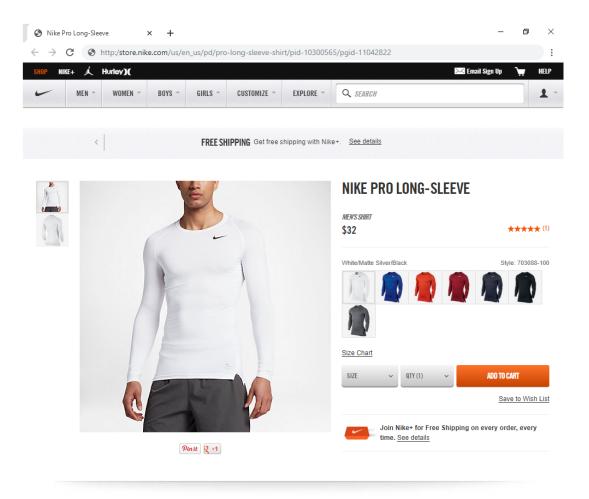
Please select the number	er Four from the follo	0 0 1 0	nne wo hree our	urvey.	

In this survey, you are going to be shown a web page and then asked some questions.
Please understand that we are only interested in your opinions or beliefs; and if you don't have an opinion or belief or don't know the answer to a question, that is an acceptable answer.
Continue
Contande









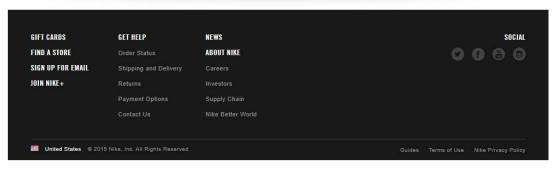


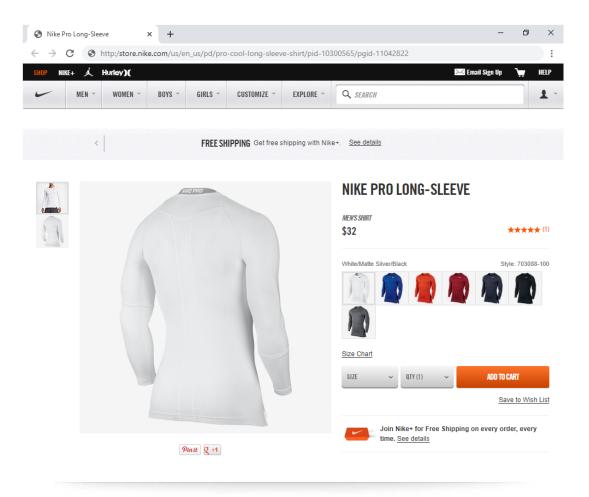
The Nike Pro Long-Sleeve Men's Shirt provides a comfortable, locked-in fit at practice and on game day with stretch Dri-FIT fabric and mesh panels.

## BENEFITS

- Dri-FIT fabric helps keep you dry and comfortable
- Ergonomic seams provide a natural feel
   Mach back panels offer reped ventilation
- Mesh back panels offer zoned ventilation
   Flat seams move smoothly against the skin
- Flat seams move smoothly against the skin

- Vented hem
- Fabric: Dri-FIT 92% polyester/8% spandex
- Machine wash
- Imported





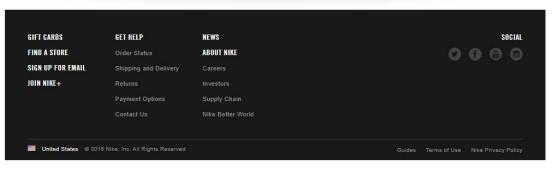


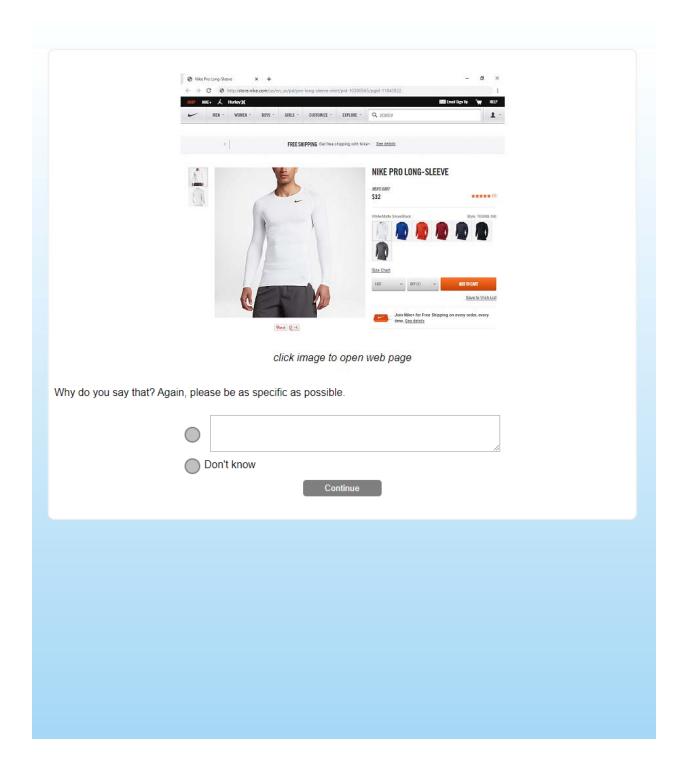
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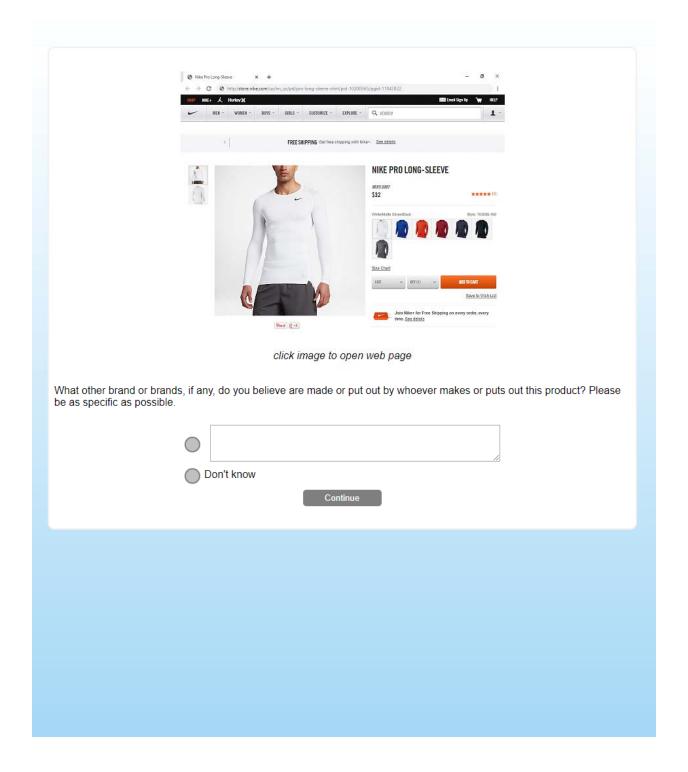
## BENEFITS

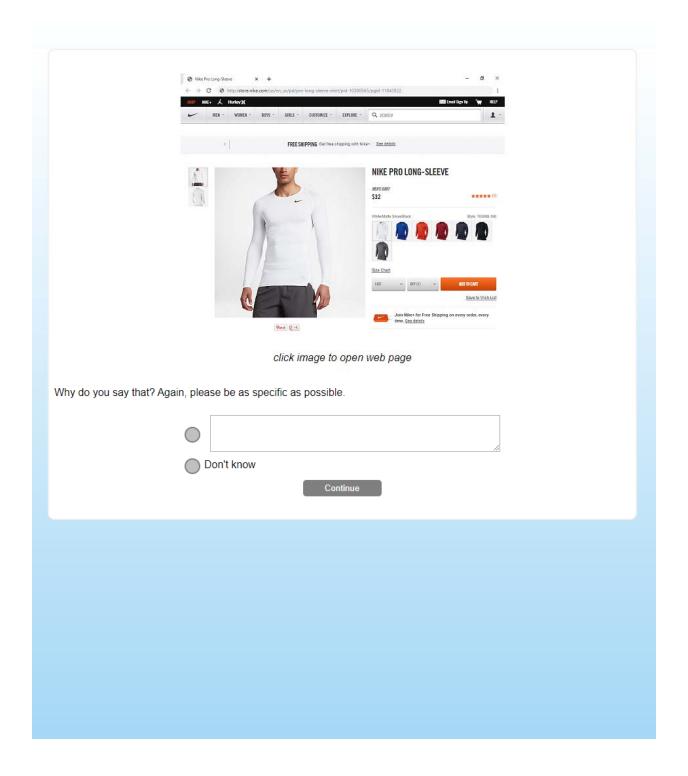
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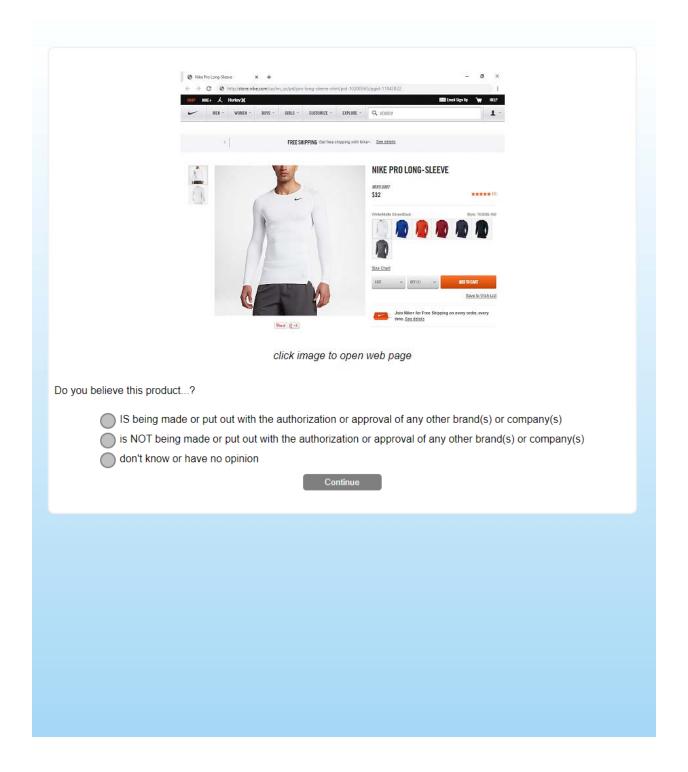
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- Fabric: Dri-FIT 92% polyester/8% spandex
- Machine wash
- Imported

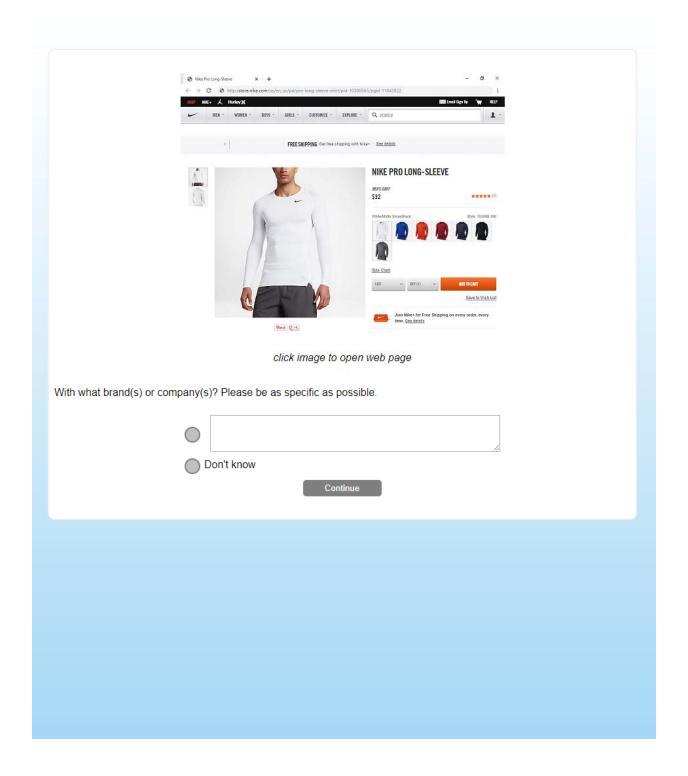


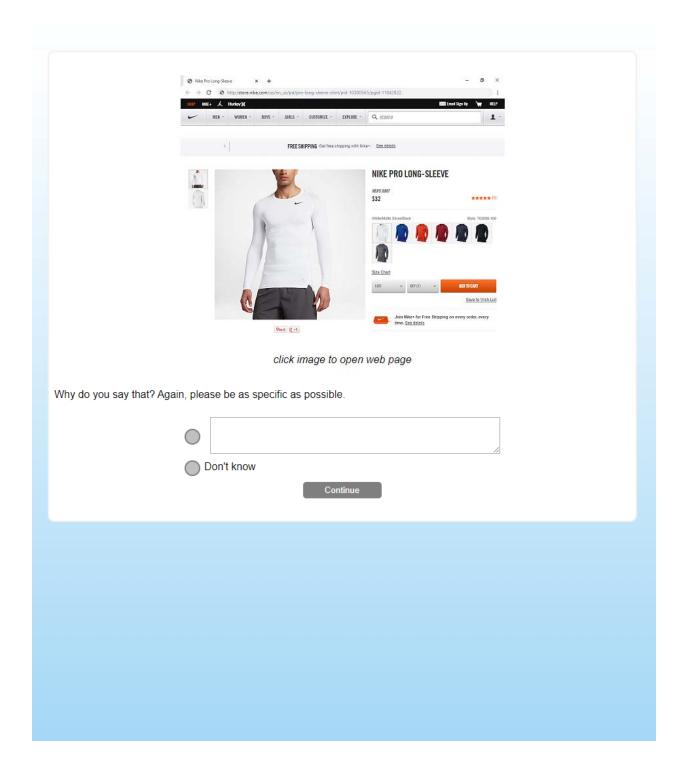


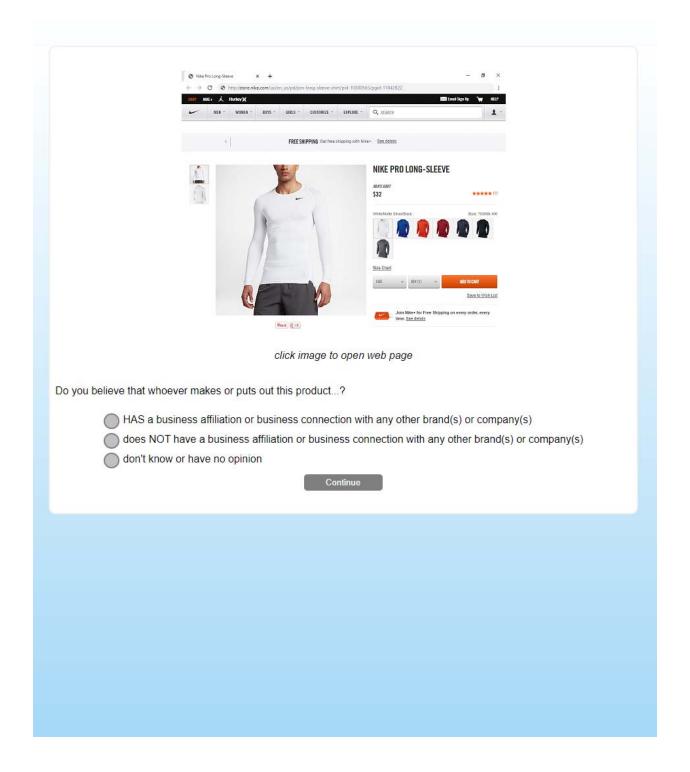


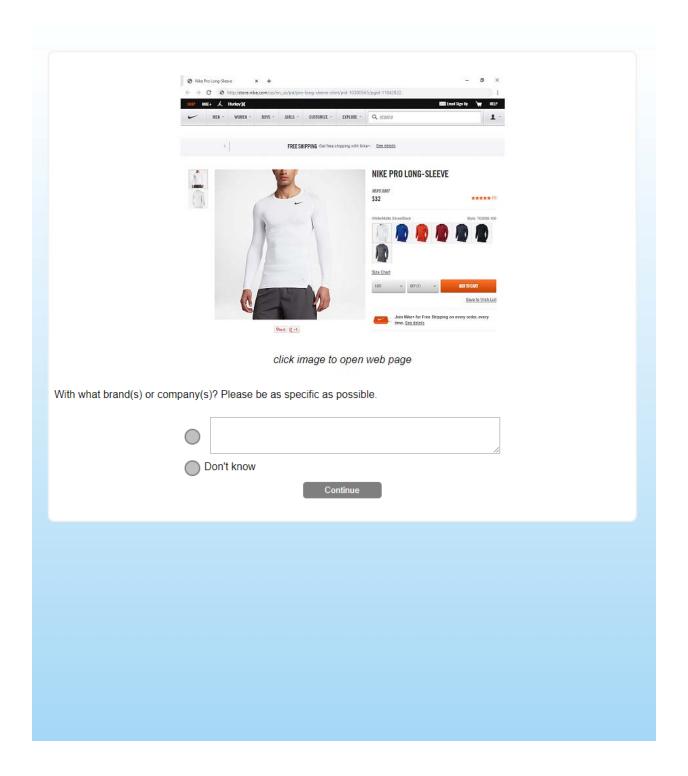


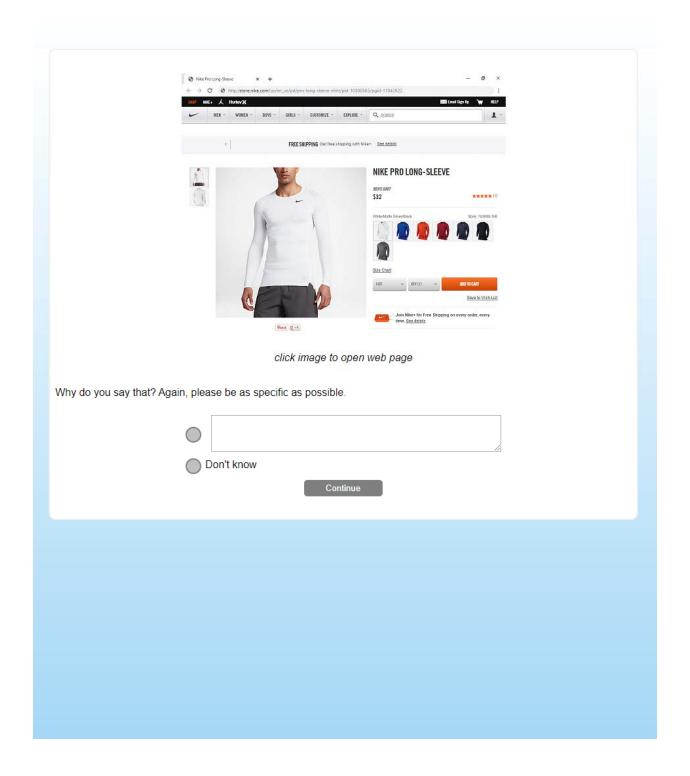


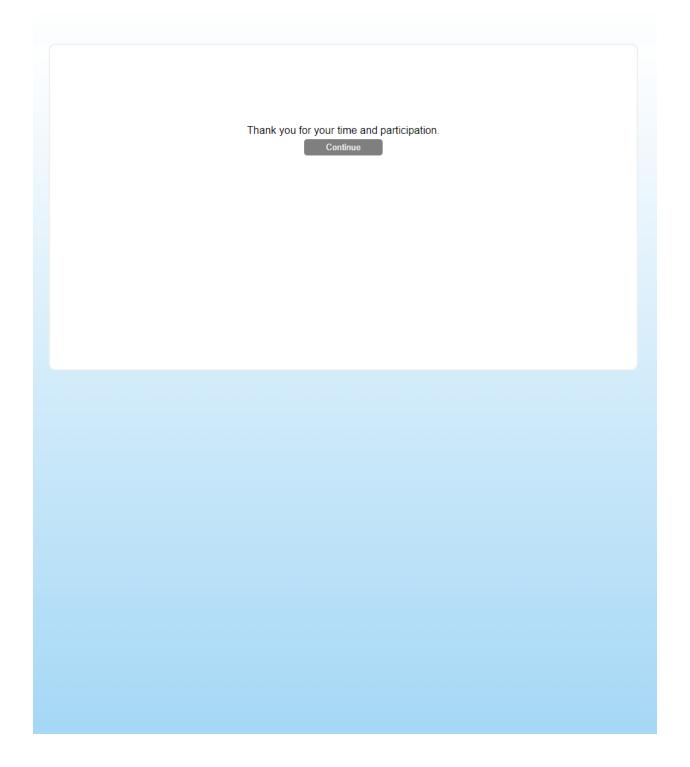












# APPENDIX D RESPONDENT NUMBERING SYSTEM

<u>SURVEY</u>	QUESTIONNAIRE NUMBER
Test Cell	1001 - 1200
Control Cell	2001 - 2200

# APPENDIX E

## FINAL SAMPLE DISPOSITION

		<u>Total</u>
Α	Total Participants	926
В	Completed Interviews	400
С	Terminates (not qualified)	227
	Q1.1 Not likely to purchase athletic performance apparel on-line Q2.1 Age does not match panel age or over quota	327 34
	Q2.1 Age does not match panel age or over quota Q3.0 Census region - Other	5 5
	Q4.0 Device disqualification	33
	Q5.0 Employment restriction	69
	Q6.0 Did not agree to answer questions without outside help Q6.1 Did not agree to answer questions without seeking additional	34
	source	3
	Q7.1 Did not agree to wear glasses/contact lenses	7
	Q8.0 Chose incorrect number	12
	S16 Not able to clearly see the words on the web page	2
D	Qualified Incompletes	
E	Total Responding	926
	Qualification Rate = (E-C) / (E)	43.20%
	Completion Rate = (B) / (B+D)	100.00%
	Response Rate = (E) / (A)	100.00%

# APPENDIX F

### SURVEY DATA FILE

# SEE DATA FILE IN EXCEL FORMAT ATTACHED SEPARATELY

# APPENDIX G OMNIBUS SURVEY DATA FILE

SEE DATA FILE IN EXCEL FORMAT ATTACHED SEPARATELY

# Exhibit B

### Publications Since 2010 Authored or Co-Authored By Matthew G. Ezell

#### **ARTICLES**

These articles are available @ www.fordbubala.com/articles

"Intellectual Property Surveys: 2018" was electronically published on the INTA website.

"Intellectual Property Surveys: Annual Cumulative Update 1998–2018" was electronically published on the INTA website.

"Intellectual Property Surveys: 2017" was electronically published on the INTA website.

"Intellectual Property Surveys: Annual Cumulative Update 1998–2017" was electronically published on the INTA website.

"Intellectual Property Surveys: 2016" was electronically published on the INTA website.

"Intellectual Property Surveys: Mid 2014 – 2015" was electronically published on the INTA website.

"Intellectual Property Surveys: 2013 – Mid 2014" was electronically published on the INTA website.

#### **CHAPTERS**

Survey Evidence in U.S. Dilution Cases, in International Trademark Dilution 545-574 (Daniel R. Bereskin 2018).



# Exhibit C

### TRIAL AND DEPOSITION TESTIMONY OF MATTHEW G. EZELL SINCE 2016

### **Trial Testimony**

2019

Coresite Denver, LLC v. DGEB Management, LLC, et al.
District Court, City And County Of Denver, State Of Colorado

2017

San Diego Comic Convention v. Dan Farr Productions et al. U.S. District Court, Southern District of California

### **Deposition Testimony**

2019

Steven Madden, Ltd. v. Jasmin Larian, LLC d/b/a Cult Gaia U.S. District Court, Southern District of New York

Diageo North American, Inc. v. W.J. Deutsch & Sons Ltd. d/b/a Deutsch Family Wine & Spirits, and Bardstown Barrel Selections LLC
U.S. District Court, Southern District of New York

The Reinalt-Thomas Corporation d/b/a Discount Tire v. Mavis Tire Supply LLC U.S. District Court, Northern District of Georgia

Quidel Corporation v. Siemens Medical Solutions USA, Inc., et al. U.S. District Court, Southern District of California

2017

Luxe Hospitality Company, LLC v. SBE Entertainment Group, LLC U.S. District Court, Central District of California

# Exhibit D

#### PROFESSIONAL HISTORY

Matthew G. Ezell

#### Ford Bubala & Associates

Peter's Landing, Suite 211 16400 Pacific Coast Highway Huntington Beach, California 92649 Telephone (562) 592-4581 Facsimile (562) 592-3867

Email matte@fordbubala.com

#### EDUCATION

Graduate Certificate in Survey Research University of Connecticut, 2016

Master of Arts Linguistics (M.A.)

California State University Long Beach, 2010

Bachelor of Arts (B.A.)

California State University Fullerton, 2002

#### PROFESSIONAL AFFILIATIONS\_

American Association for Public Opinion Research (AAPOR)

The Insights Association (Merger of The Marketing Research Association (MRA) and the Council of American Survey Research Organizations (CASRO))

International Trademark Association (INTA)

Publications Committee, 2019 – present

The Trademark Reporter (TMR) Committee, 2016 – 2019

Teachers of Japanese in Southern California, President and Board Member, 2009 – 2012

#### PROFESSIONAL EXPERIENCE\_

Ford Bubala & Associates (Principal), 2015 – Present

Responsible for questionnaire design and execution, including identifying appropriate universe, relevant questions and methodology; coding and data analysis; Rule 26 Declaration and report generation and testimony; and communication with clients.

Ford Bubala & Associates (Senior Research Associate), 2010 – 2015

Ford Bubala & Associates (Research Associate), 1997 – 2002; 2007 – 2010

Ford Bubala & Associates is a marketing and management consulting firm which provides a variety of consulting services in the areas of marketing management, marketing research, marketing planning, competitive evaluation, economic analysis, and strategy development.

Ford Bubala & Associates has been retained to provide consulting assistance for a diverse base of companies in consumer products, industrial products, and service sectors of the economy.

#### PRIOR EXPERIENCE\_

Fullerton College, Lecturer, Japanese language, 2014

Irvine Valley College, Lecturer, Japanese language, 2011 – 2012

Hanno Municipal Board of Education, Saitama, Japan, English teacher 2002 – 2005

